



# **Welcome to the Boards and Commissions Workshop**

**Hosted by:**

**Rhonda Geriminsky, MMC, City Clerk**

# Peoria City Council



**Cathy Carlat**  
Mayor



**Bridget Binsbacher**  
Vice Mayor  
Mesquite District



**Carlo Leone**  
Councilmember  
Pine District



**Bill Patena**  
Councilmember  
Ironwood District



**Jon Edwards**  
Councilmember  
Willow District



**Michael Finn**  
Councilmember  
Palo Verde District



**Vicki Hunt**  
Councilmember  
Acacia District

## Boards and Commissions Workshop

### Workshop Objectives

- To provide an understanding of how your role as a board or commission member fits within City Government
- To provide the tools necessary for effective and efficient meetings



# Boards and Commissions Workshop

## Workshop Overview

- City Government
- Ethics
- Robert's Rules of Order
- Media
- Peoria Leadership Institute
- Open Meeting Law
- Wrap Up





**Carl Swenson**  
**City Manager**



# **Ethics and Roberts Rules of Order**

Steve Burg, Acting City Attorney

## Ethics

Ethics is a standard of conduct for professional and personal behavior based on shared values.

### **Four Core Principles of Ethics**

- Seek no favor
- Build trust through transparency and honesty
- Treat all equitably
- Build great communities through great stewardship



## Ethics

### **Seek no favor**

- Confidentiality
- Gifts and Gratuities

### **Build trust through transparency and honesty**

- Public Confidence
- Upholding the Law
- Conflict of Interest
- Social and Digital Media
- Involvement in Political Activity



## Ethics

### **Treat all equitably**

- Impression of influence
- Influence on Others

### **Act as good stewards of City and community resources**

- Financial Responsibility
- Use of City Resources



## Ethics

### Ex Parte Communications

- Ex parte communication is discussing with one of the parties the merits of a case without the other party being present or formally notified of the opportunity to be present to explain their side
- Avoid ex parte communication and ask your board or commission liaison if there are any legal requirements for communicating with an applicant



## Ethics

### **Serve the Public with Respect**

- Be honest and straightforward
- Keep your perspective and do not take the discussion or decisions personally
- Avoid unacceptable activities prior to a meeting which may impair your judgment
- Avoid abusive language or comments of a racial, religious, sexual or ethnic nature that could be perceived as offensive or disrespectful



## Ethics

### **Serve the Public with Respect**

- Do not visit with friends, applicants or other audience members before or after a meeting
- Avoid the appearance of favoritism for friends, applicants or others in the audience who may be associated with an agenda item
- Do not send GROUP emails to fellow board and commission members - this can be perceived as avoidance of the open meeting law



## Ethics

- Talk with your Board or Commission Liaison or the Peoria City Attorney's Office if you have questions.
- Report ethical concerns to your Board or Commission Liaison or the City Attorney.



## Roberts Rules of Order

- Introduction to Roberts Rules of Order
- Common Rules and Procedures



**Questions?**



**Jennifer Stein**  
**Director of Communications**

## Peoria Office of Communications

The Office of Communications exists to proactively communicate information to residents, customers, and employees; provide useful municipal information to residents and help foster community pride; and to develop a sense of organizational pride among employees.



# Peoria Office of Communications

## Key Functions

- External Communications
  - *Direct communication with audiences via printed, electronic or face-to-face interaction*
- Media Relations
  - *Telling the city's story via the news media*
- Video Production and Broadcast
  - *Meetings and original productions*
- Web Site Design, Hosting and Maintenance
  - *Peoriaaz.gov, PeoriaSportsComplex.com, Peoriaspringtraining.com, PeoriaAZSmart.com, VisitPeoriaAZ.com, FiestaPeoria.com, P83AZ.com. Public Safety web sites and CityNet (internal)*



# Peoria Office of Communications

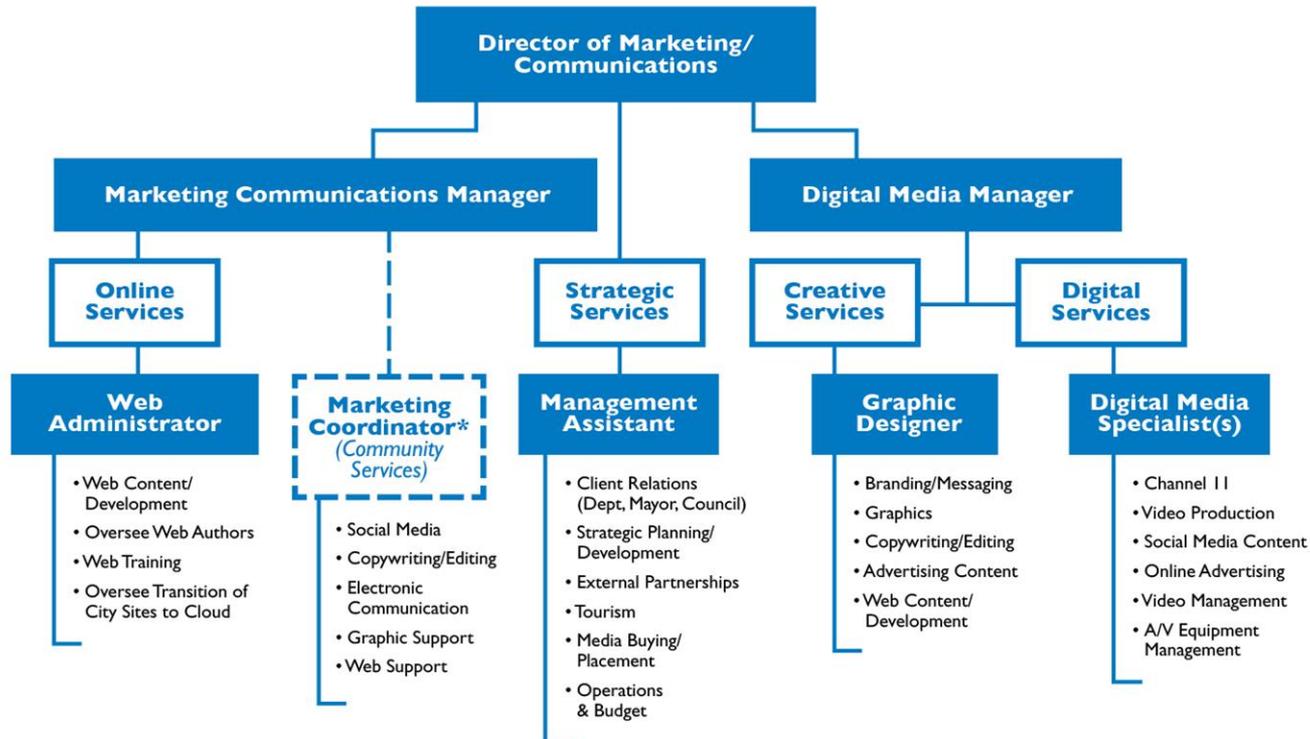
## There's More!

- Internal Communications  
*Employee news and information*
- Social Media  
*Facebook, Twitter, Google+, Nextdoor, Periscope ...*
- Graphic Design
- Marketing/Advertising
- Special Projects  
*i.e.: 2-Can Same Day Pickup, Special Census 2015*
- Council Support, and more



# Peoria Office of Communications

## Office of Communications Organization Chart



## Peoria Office of Communications

### Things you need to know...

- What if the media contacts you?
- When asked about an issue where you are identified as Board or Commission Member . . .
  - Please let the Office of Communications know if you have spoken to a representative of the media.
  - You are not compelled to speak with the media. If you are contacted, please call the Office of Communications. We can help you with your message.



## Peoria Office of Communications

### Things you need to know...

- The Mayor, Council and the Office of the Communications serve as the designated spokespeople on behalf of the City of Peoria. It is important that we share the same consistent messaging for the City.



## Peoria Office of Communications



### Social Media!



- The Office of Communications approves new social media pages and retains access to all social media pages.
- The Office of Communications is responsible for the content posted and shared on city social media pages.
- Only designated, trained employees can have access to and post on city pages.
- All social media content must be archived and it is subject to public record laws.
- This policy is posted on our websites.



## Peoria Office of Communications

### Things you need to know...

- So, how can you help communicate for the City?
  - Follow and like the City of Peoria social media.



- Share the information provided with your friends and associates.



# Peoria Office of Communications

## Peoria Leadership Institute

The Peoria Leadership Institute offers an in-depth look at all operations of city government. Class members learn about the city's governmental structure, its budget and finances, public works, utility, police and fire operations through interactive discussions with management staff.

Peoria Leadership institute is enjoyable for everyone, but should prove especially insightful for those considering public office or seeking appointment to one of the city's advisory boards or commissions.



## Peoria Office of Communications

Jennifer Stein

Director of Communications

O - 623-773-7934

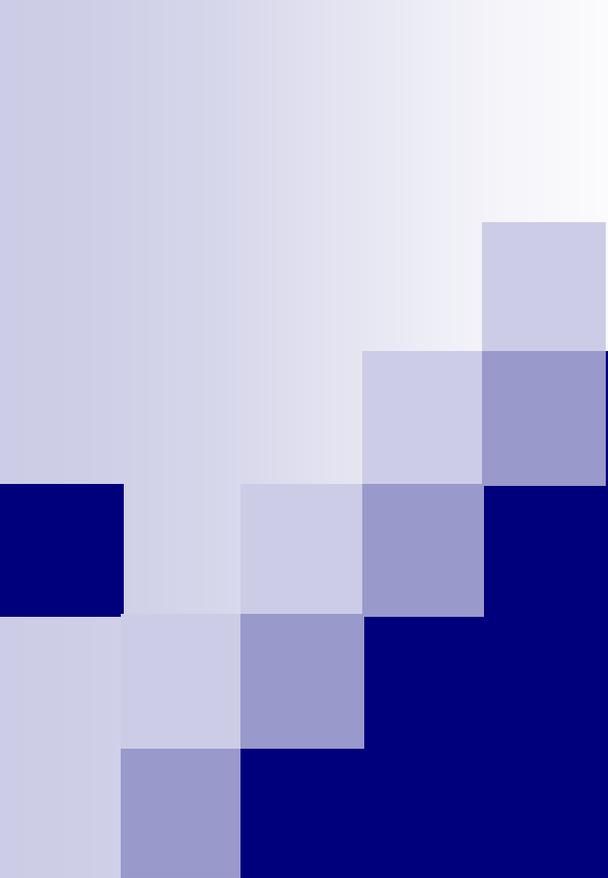
C - 602-349-6749

[Jennifer.Stein@Peoriaaz.gov](mailto:Jennifer.Stein@Peoriaaz.gov)





**Danee Garone**  
**Arizona State Ombudsman**



# Arizona's Open Meeting Law

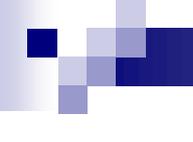
Danee Garone  
Assistant Ombudsman – Public Access



# Role of the State Ombudsman

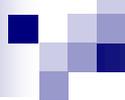
A.R.S. § 41-1376.01

- Investigate complaints relating to public access law.
- Train public officials and educate the public on the rights of the public under the public access laws.



# Enforcement Authority

- Arizona Attorney General's Open Meeting Law Enforcement Team (OMLET)
  - Investigate complaints
  - Enforcement authority
  - Arizona Agency Handbook, Chapter 7 (Revised July 2010)
    - Available online: [www.azag.gov](http://www.azag.gov)
- County Attorney's Office
- The Courts



# What is the open meeting law?

Set of laws that were intended to:

- Maximize public access to the governmental process.
- Open deliberations and proceedings to the public.
- Prevent public bodies from making decisions in secret.
  - Found at A.R.S. §§ 38-431 through 38-431.09.

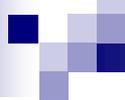
# Who Must comply?

- “Public Bodies” – A.R.S. § 38-431(6)
  - All councils, boards, commissions of the state or political subdivisions
  - Multimember governing bodies of departments, agencies, institutions and instrumentalities of the state or political subdivisions
  - Includes corporations or other instrumentalities whose boards of directors are appointed or elected by state or political subdivision



# AG Opinion I07-001

- The entity's origin (whether it was created by government)
- Whether the entity's performs a function traditionally associated with government
- Whether the entity has the authority to make binding governmental decisions
- Nature of government financial involvement
- Nature and scope of government control over entity
- Whether officers and employees are government employees



# The definition also includes...

Standing committees

Special committees

**Advisory committees**

**Subcommittees**

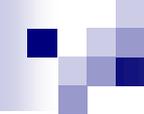
- of or appointed by the public body

# Advisory committees and subcommittees are defined as...

- Any entity, **however designated**
- Officially established
  - on motion or order of the public body
  - **or** by presiding officer of the public body
- For purpose of making a recommendation concerning a decision to be made or a course of conduct to be taken by the public body

# Statutory Requirements

- Secretary of State, Clerk of the County Board of Supervisors, and City/Town clerks must conspicuously post open meeting law materials prepared and approved by the Attorney General's Office on their website.
  - Chapter 7 of the Arizona Agency Handbook
  - Revised July 2010
- All persons elected or appointed to a public body must review the materials at least one day before taking office.



# What Must a Public Body Do?

- Provide notice
- Have an agenda
- Meet in public
- Permit public to attend
  - Exception: authorized executive sessions
- Take all action in public
- Prepare meeting minutes

# What is a Meeting?

- A.R.S. § 38-431(4)
- “Meeting” is a **gathering**, in person or through technological devices
- of a **quorum** of a public body
  - Discuss
  - Propose
  - Deliberate
  - Take legal action

# Quorum?

Majority of the public body – A.R.S. § 1-216(B)

□ (unless specific statutory provision specifies a different number)

- 7 members /quorum =4
- 5 persons /quorum = 3
- 3 persons /quorum = 2

\*That includes vacant seats unless otherwise specified by law.



# Telephone Conferencing

- Approve this practice
- Board members and public must be able to hear
- Provide information in minutes

# The “Initial” Notice (aka disclosure statement)

- A.R.S. § 38-431.02
- Tells public where individual meeting notices will be posted (must include both physical and electronic locations).
- Must be posted on public body’s website.
  - Cities and Town may use association of cities and towns website.
  - Special districts may file it with the County Clerk.

## Form 7.1 - Disclosure Statement - Section 7.6.3.1

### **STATEMENT OF LOCATIONS WHERE ALL NOTICES OF THE MEETINGS OF THE [NAME OF PUBLIC BODY] WILL BE POSTED**

Pursuant to A.R.S. § 38-431.02, the [name of public body] hereby states that all notices of the meetings of the [name of public body] and any of its committees and subcommittees will be posted [identify the location where notices will be posted and include the hours during which such locations are open to the public, for example, "in the lobby of the State Capitol located at 1700 West Washington, Phoenix, Arizona, and at the press room of the State Senate Building, 1700 West Washington, Phoenix, Arizona. Both locations are open to the public Monday through Friday from 8:00 a.m. to 5:00 p.m. except legal holidays."] Such notices will indicate the date, time, and place of the meeting and will include an agenda or information concerning the manner in which the public may obtain an agenda for the meeting.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

[name of public body]

By [authorized signature]

# Notice of Meetings

## A.R.S. § 38-431.02(C)

Provided 24 hours in advance of meeting

- To all members of the public body
- To the general public
- 24 hours may include Saturdays IF the public has access to the physical posting location. May not include Sundays or other legal holidays prescribed under A.R.S. § 1-301

Exceptions:

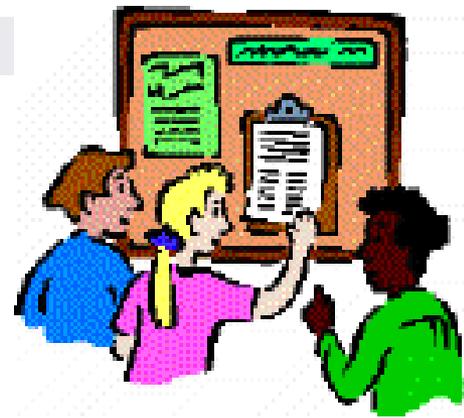
- Recess and resume
- Actual emergencies

# Contents of Notice

- The name of the public body
- Date, Time, and Place
  - Address and room number
- Must include an agenda OR inform the public how to obtain a copy of the agenda



# Posting the Notice



- Must be posted in all location identified in the initial notice (disclosure statement). This must be a location where the public has access.
- Must post it on website (see exception for special districts).
- Must give additional notice that is reasonable and practicable.

# A.R.S. § 38-431.02 – Notice of Meetings

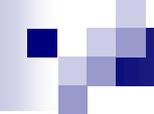
- **The public bodies of this state, charter schools board, public bodies of counties and school districts, shall:**
  - (a) Conspicuously post a statement on their website stating where all public notices of their meetings will be posted, including the physical and electronic locations, and shall give additional public notice as is reasonable and practicable as to all meetings.
  - (b) Post all public meeting notices on their website and give additional public notice as is reasonable and practicable as to all meetings. A technological problem or failure that either prevents the posting of public notices on a website or that temporarily or permanently prevents the use of all or part of the website does not preclude the holding of the meeting for which the notice was posted if the public body complies with all other public notice requirements required by this section.

# A.R.S. § 38-431.02 continued...

- **Special districts that are formed pursuant to title 48:**
  - (a) May conspicuously post a statement on their website stating where all public notices of their meetings will be posted, including the physical and electronic locations, and shall give additional public notice as is reasonable and practicable as to all meetings.
  - (b) May post all public meeting notices on their website and shall give additional public notice as is reasonable and practicable as to all meetings. A technological problem or failure that either prevents the posting of public notices on a website or that temporarily or permanently prevents the use of all or part of the website does not preclude the holding of the meeting for which the notice was posted if the public body complies with all other public notice requirements required by this section.
  - (c) If a statement or notice is not posted pursuant to subdivision (a) or (b) of this paragraph, shall file a statement with the clerk of the board of supervisors stating where all public notices of their meetings will be posted and shall give additional public notice as is reasonable and practicable as to all meetings.

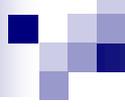
# A.R.S. § 38-431.02 continued...

- **The public bodies of the cities and towns shall:**
  - (a) Conspicuously post a statement on their website or on a website of an association of cities and towns stating where all public notices of their meetings will be posted, including the physical and electronic locations, and shall give additional public notice as is reasonable and practicable as to all meetings.
  - (b) Post all public meeting notices on their website or on a website of an association of cities and towns and give additional public notice as is reasonable and practicable as to all meetings. A technological problem or failure that either prevents the posting of public notices on a website or that temporarily or permanently prevents the use of all or part of the website does not preclude the holding of the meeting for which the notice was posted if the public body complies with all other public notice requirements required by this section.



# A few tips on posting notices

- Make sure it can't be removed.
- Make sure front and back can be read.
- Document when the notice/agenda was posted
  - Need a regular, routine business practice
  - Clerk marks time of posting with initials
  - Date / time stamp at exact time of posting



# Recess and Resume

- A public body may recess and resume a properly noticed meeting to a later time or date by making an announcement at the meeting what agenda items will be covered.

# Emergency Meetings

A.R.S. § 38-431.02(D) and Agency Handbook section 7.7.9

- In case of “actual emergency,” law permits the board to meet, discuss and decide matters with less than 24 hours notice.
- What constitutes an “actual emergency”?
  - Due to unforeseen circumstances, immediate board action is necessary to avoid a serious consequence that would result from waiting until proper notice could be provided.



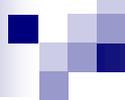
# Emergency Meeting Requirements

- Aside from the 24 hour notice requirement, all Open Meeting Law requirements still apply
- Provide notice as soon as possible
- Announce in public the reasons necessitating emergency action
- Include reasons in the meeting minutes
- Post a notice stating the emergency session occurred and providing the information required on a normal agenda within 24 hours after the meeting

# Social Events & Seminars



- You might consider posting a “courtesy agenda” announcing event and explain that a quorum might be present
- Identify date, time, and purpose (location details will vary depending on event)
- State that no business of the public body will be discussed and no legal action will be proposed or taken
- Members must be scrupulous to avoid improper discussion



# The Agenda

## A.R.S. § 38-431.02(H)

- Must list the specific matters to be:
  - discussed,
  - considered or
  - decided
- Must include information reasonably necessary to inform the public
- All discussion must be reasonably related to an adequately described agenda item.



# Common Agenda Problems

- Using language a regular person would not understand
  - Legalese
  - Acronyms (without first spelling it out)
  - Agency slang
- Using general categories without details
  - “New Business”
  - “Old Business”
  - “Personnel”
  - “Reports”

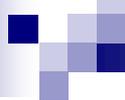
# Current Events – A.R.S. § 38-431.02(K)

- Chief administrator, presiding officer or a member of a public body may present a **brief** summary of **current events** without listing in the agenda the specific matters to be summarized **provided that:**
  - “Current Events” is an **agenda item**, and
  - Public body does not propose, discuss, deliberate or take legal action.

# If it's not on the agenda...

- You cannot discuss it!
- New items must wait for a future meeting.





# Meeting Location Pitfalls

- Inaccessible
  - A board member's house
- Inaudible
- Not enough room
- Unreasonable times (very subjective)

# Public's Rights

- Attend
- Listen
- Tape record
- Videotape



# Public has NO Right to:

- Speak
- Disrupt



## Practical Pointer:

- make a good record of warnings

# Calls to the Public

A.R.S. § 38-431.01(H)

- Optional (unless required by other laws)
- Time, manner, place restrictions
  - Can Limit Time (egg timer)
  - Ban Repetition
    - May require speakers on the same side with no new comments to select spokesperson
  - Prohibit Disruptive Behavior



# Common Pitfall of Calls to the Public

- Discussing matters not listed on the agenda.
- If it's not an agenda item, public body's response is limited to:
  - Direct staff to study the matter
  - Ask that a matter be placed on a future agenda
  - Respond to criticism

Note: These three responses must take place at the **conclusion** of the call to the public!

# Meeting Etiquette

## ■ Asking for trouble:

- Passing notes, texting, e-mailing (even if it's about when to order lunch)
- Whispering to fellow board members
- Quorum talking with individuals before the meeting officially starts or after the meeting officially ends.

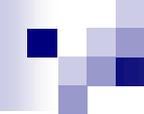
# Executive Sessions

- Public excluded
- Only permitted for specific matters
  - A.R.S. §§ 38-431.03(A)(1) through (7)
- Must include possibility of executive session in the meeting notice and agenda
- Must vote to enter executive session
- Discussion is confidential
- No action permitted!
- Must have minutes or recording

# Executive Sessions

- Just because you CAN have one, should you?
- Public suspicion vs. actual need





# Executive Session Notice/Agenda

- Notice must include the statutory section authorizing the executive session
- Agenda must provide a general description of the matters to be discussed or considered
  - Needs to be more than a statutory citation
  - Need not contain information that would:
    - Defeat the purpose of the executive session
    - Compromise the legitimate privacy interests of a public officer, appointee, or employee
    - Compromise the attorney-client privilege

# Who May Attend Executive Sessions - A.R.S. § 38-431(2)

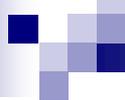
- Members of public body
- Persons subject to a personnel discussion
- Auditor general
- Individuals **whose presence is reasonably necessary** in order for the public body to carry out its executive session responsibilities
  - Clerk to take minutes/run tape
  - Attorney to give legal advice

*Tip: Put on the record why individuals attending are reasonably necessary.*

# Executive Session Pitfalls

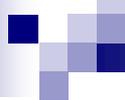
- Inappropriate disclosure
  - What happens in executive session stays in executive session!
  - Chair must remind members about the confidentiality requirement every time.
    - A.R.S. § 38-431.03(C)
- Taking legal action.
  - All votes must take place in public!





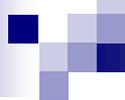
# Personnel Matters

- May discuss and consider employment, assignment, appointment, promotion, demotion, dismissal, salaries, discipline or resignation of an officer, appointee, or employee of the Board
  - Must be able to identify a specific individual



# More considerations regarding Personnel Matters

- If the matter is noticed for a possible executive session, separate written notice to employee at least 24 hours before meeting.
- Employee may require meeting be held in public (does not include individual salary discussions).
- Employee does not have the right to attend executive session, but may. (Regardless, employee has access to portion of executive session meeting minutes.)



# Common Questions

Q: *May you conduct personnel evaluations in executive session?*

A: Yes. See AZ Attorney General Opinion I96-012

Q: *May a board interview applicants in executive session?*

A: Yes, if position is one appointed by the board. See AZ Attorney General Opinion I83-050.

Note: Must vote for appointment in open and public session.



# Confidential Information

- Discussion or consideration of records exempt by law from public inspection
- Can receive and discuss information and testimony that state or federal law requires to be maintained as confidential
- Discussion may occur in open session when confidential information is adequately safeguarded (i.e. use initial for medical patients)

# Legal Advice



- Discussion or consultation for legal advice with attorneys **for the public body**
- Exchange of communication between lawyer and client
- Members may not discuss among themselves the merits or what action to take:
  - **Debate** over what action to take,
  - **pros and cons**, or
  - **policy implications** of competing alternative courses of action.



# Other Possible Reasons for Executive Session

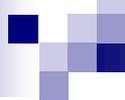
- Discuss and consult with attorneys to consider litigation, contract negotiations, and settlement
- Discussion regarding negotiation with employee organizations about salary.
- International, Interstate, and Tribal Negotiations.
- Discussion regarding negotiations for the purchase, sale, or lease of real property.

# Minutes

## A.R.S. § 38-431.01(B)

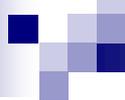
### ■ Minutes or recording required

- Caution: Pursuant to A.R.S. § 39-101, permanent records must be on paper.
- Tape recordings – must be retained for at least 3 months after minutes are completed and approved.



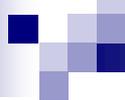
# Content of Public Meeting Minutes

1. Date, time and place of meeting
2. Members present & absent
3. General description of matters considered
4. Accurate description of legal action
5. Names of members who propose each motion
6. Names of persons, as given, making statements or presenting material to the public body; and
7. A reference to the legal action about which they made statements or presented material



# Access to Public Meeting Minutes

- Minutes or a recording shall be open to public inspection **3 working days** after the meeting
- NOT AFTER APPROVAL



# Meeting Minutes: cities and towns

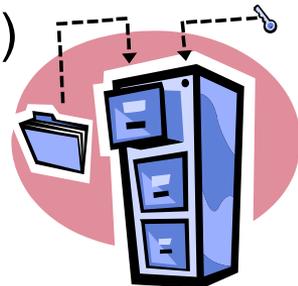
- A.R.S. § 38-431.01(E)
- Cities and towns with population of more than 2,500 shall:
  - Post legal actions taken or any recording on its website within 3 working days
  - Post approved meeting minutes from city or town council meetings on its website within two working days following approval
- Posting must remain on website for one year

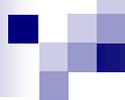
# Subcommittees and Advisory Committees

- A.R.S. §§ 38-431(6), 38-431.01(B) and (E)(3)
- Subcommittees and advisory committees must:
  - Take written minutes or record all meetings, including executive sessions
  - Within 10 working days of the **meeting**, **subcommittee or advisory committee of a city or town with a population of 2,500 or more** must:
    - Post a statement describing any legal action or
    - Post any recording of a public meeting

# Executive Session Meeting Minutes

- Shall have written minutes or a recording
  - Burden of proof – *Fisher* case
- Shall include the following:
  - Date, time and place of meeting
  - Members present & absent
  - General description of matters considered
  - An accurate description of all instructions given
  - Such other matters as deemed appropriate by the public body
- Shall be kept confidential (A.R.S. § 38-431.03(B))

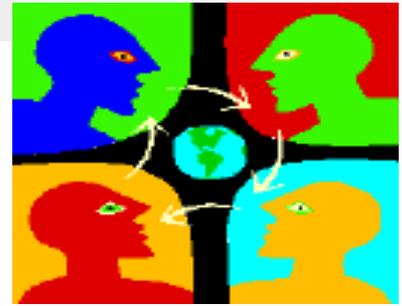




# Access to Executive Session Meeting Minutes

- Meeting minutes of executive session shall only be released to:
  - Members of the public body
  - Officers, appointees, or employees who were the subject of discussion or consideration (only that portion)
  - Auditor general in connection with an audit
  - County attorney, attorney general or ombudsman when investigating alleged violations

# Circumvention



- Cannot use any device to circumvent the law.
- “Splintering the quorum”:
  - Serial communications (verbal, written, electronic, etc.)
    - Meeting with individual members and then reporting what others said with enough to constitute a quorum
  - Polling the members

# Non-verbal Serial Communications

- Letters - series of **letters** from one member to the next would violate OML
- E-mail – occurring at different times will still constitute a “meeting” in violation of the OML
  - Simultaneity is not required for there to be a “meeting”

# Attorney General Opinion I05-004: E-mail

- Attorney General's website [www.azag.gov](http://www.azag.gov)
- Board members cannot use e-mail to circumvent the OML
- Cannot use e-mail among a quorum to:
  - Propose legal action
  - Discuss legal action
  - Deliberate on legal action
  - Take legal action



# Electronic Communications

- Electronic communications are treated the same as any other form of communication between board members.
- Electronic communications exchanged among a quorum of the Board that involve discussion, deliberations, or taking legal action on matters that may come before the Board constitute a meeting and thus violate the open meeting law.

# For example:

- You have a 5 member board
- One member sends an e-mail to 2 members and there's a response shared among all 3
- You now have a discussion among three members = a quorum
- Violation

# Facts vs. Opinion?

- There is **no distinction** between discussing facts vs. discussing opinions among a quorum
- Deliberation = “collective acquisition and exchange of facts preliminary to a final decision”
- Therefore, 2-way discussion of facts (among quorum) regarding potential board business = violation

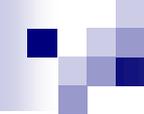
# Board might consider...

- a statement on e-mail that provides:  
“To ensure compliance with the Open Meeting Law, recipients of this message should not forward it to other members of the Board. Members of the Board may reply to this message, but they should not send a copy of their reply to other members.”



# Staff E-mail

- Staff may send e-mail to board members.
- Passive receipt of information from staff, without more, does not violate the open meeting law.  
Example: board packets
- Staff may NOT send opinion or substantive communication about board business from a board member to enough other members to constitute a quorum.

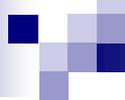


# Prohibited 1-Way Communication

- A single board member may violate the OML if they propose legal action among a quorum outside a properly noticed meeting
- “Propose” – means “to put forward for consideration, discussion, or adoption.”
- It only takes 1 person to propose legal action
- CANNOT propose legal actions outside of a noticed meeting

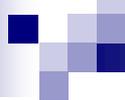
# Proposing an Agenda Item?

- Proposing an item for the agenda does not propose legal action
- **“without more”**
- Be cautious:
  - communicate the TOPIC only
  - NOT the legal action you want the board to take



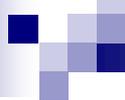
# “Propose” – EXAMPLES in the Opinion

- “We should discuss safety at First and Main”
  - Does NOT propose legal action
  
- “We should install a crosswalk at First and Main”
  - Does propose legal action
  - It’s more than a topic for the agenda because it urges or suggests an outcome



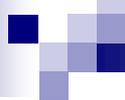
## More Examples:

- “I think we should consider firing the City Manager at our next meeting.”
- “I would like to discuss the City Manager’s performance at our next meeting.”



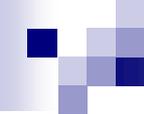
# Executive Sessions

- A board meets in executive session to discuss pending litigation.
- The board directs their legal counsel to appeal a court decision in executive session.
- The board does not vote when they return to open session.



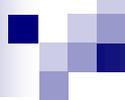
# Now, you try these:

- A board member sends an email to a quorum stating that the board should implement a program like the one described in the attached article.
- A board member sends an article to the quorum with no additional comments.



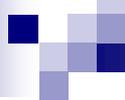
# More Examples:

- A board member sends an article to the quorum and another board member responds with an opposing article.
- Three board members exchange emails discussing a topic that will be voted on at a future meeting. The quorum is four.



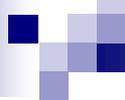
# Staff & Other Persons

- Cannot direct staff to communicate in violation of the open meeting law – A.R.S. § 38-431.01(I)
- Sanctions may be imposed upon any person who knowingly aids, agrees to aid or attempts to aid another person in violating this article – A.R.S. § 38-431.07(A).



# Communications with the Public

- Members may express opinions and discuss issues with the public at a venue other than a public meeting, personally, through the media or other public broadcast so long as it is not intended to circumvent the open meeting law



# What does that mean?

- Discussion or opinion must not be principally directed at or directly given to other board members
- There is no plan to engage in collective deliberation to take legal action.
- Review these resources:
  - A.R.S. § 38-431.09(B) added by 2008 Session Laws, Ch. 135, § 1 (effective 9/26/08)
  - Attorney General Opinion I07-013

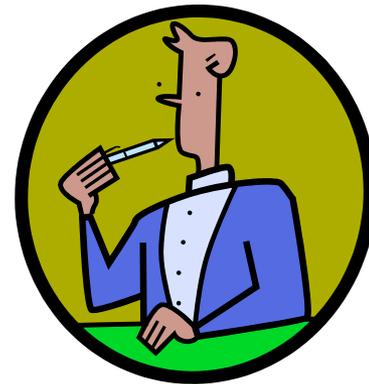
# When in Doubt?



- RESOLVE ALL DOUBTS IN FAVOR OF OPENNESS.
- Remember: legal action taken during a meeting held in violation of any provision of the open meeting law is null and void unless ratified.

# What to do when you learn that a potential OML violation has occurred.

- If in the thick of things = Recess/Assess
- Can you resolve the issue and continue?
- Does the particular OML violation taint your whole meeting? Maybe not – AG Opinion 108-001



# After the meeting...



- Determine if you need to ratify any actions
- Provide refresher training to staff involved
- If you receive a complaint: Be candid; respond promptly
- Provide materials that help you: minutes, ratification materials, videotapes, etc.

# Ratification – A.R.S. § 38-431.05

- Within 30 days after discovery of the violation or when should have been discovered with reasonable diligence
  - ***Tanque Verde Unified School Dist. v. Bernini***, 206 Ariz. 200, 76 P.3d 874 (App. 2003) (30 days after court ruling OK)

# Ratification Continued...

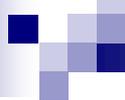
- Notice 72 hours before the meeting
  - Description of action to be ratified
  - Clear statement that the body proposes to ratify a prior action
  - Information on how to obtain detailed written description of the action
    - Written description includes:
      - Action to be ratified
      - All of the preceding deliberations, consultations and decisions that preceded and related to the action
      - Must be included in minutes

# Penalties - A.R.S. § 38-431.07(A)

- Members and any persons who aid, attempt, or agree to aid -
  - Civil penalty up to \$500 for each violation
  - Such equitable relief as the court deems appropriate
  - Reasonable attorneys' fees
- If intent to deprive the public of information –
  - Court may remove public officer from office and
  - Charge officer and any person that aided, agreed to aid, or attempted to aid, all the costs and attorney's fees

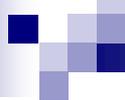
# 52nd Legislature – Second Session (Part I)

- HB 2583 – FAILED – Would amend A.R.S. § 38-431.01 to require all public bodies to provide a complete audiovisual recording of all meetings except for executive sessions. The bill failed on third read in the House. It was reconsidered the same day after an amendment was made to exempt special taxing districts from the requirement. This time, the bill narrowly failed 31-28.



# 52nd Legislature – Second Session (Part II)

- SB 1396 – FAILED – Would amend A.R.S. § 15-181 to subject charter schools, charter school governing bodies, and other related entities to open meeting law and public records laws.



# Scenario—Town Hall Meetings

- City hosts Town Hall meetings where citizens can meet municipal officials and City Council members and ask them about City business. The Council consists of seven members.
- What if 3 Council members are on the panel with other officials and staff?
- How about 4 members?
- What if 3 Council members are on the panel and 2 are sitting in the audience?
- What if none of the Council members answer questions or speak about business, other than to praise the performance of the staff?

# Scenario—Call to the Public

- A woman takes the podium at Call to the Public during Town Council meeting. She turns to face the audience and criticizes the Council's policies and actions.
- Can the Council have the police remove her from the meeting at this point?
- What if she began yelling and cursing in her criticism of the Council?
- What if she merely sat in the front row with a sign on her shirt calling the Council members "stormtroopers?"

# Key Resources

- Arizona Agency Handbook, Chapter 7, [www.azag.gov](http://www.azag.gov)
- Ombudsman Publications
- Ombudsman website [www.azoca.gov](http://www.azoca.gov)
- Department of Library, Archives, and Public Records [www.lib.az.us](http://www.lib.az.us)
- Case law
- Attorney General Opinions [www.azag.gov](http://www.azag.gov) or <http://azmemory.lib.az.us/>



**Rhonda Geriminsky**  
**City Clerk**

## Boards and Commissions Workshop

### Staff Liaison Role

- Prepare the agenda and review it with the chairperson prior to distribution
- Prepare meeting minutes and results
- Notify Board and Commission members of meeting dates, times and location
- Handle logistics regarding meeting scheduling and setup
- Distribute the agenda packet
- Ensure the recording and distribution of the meeting minutes
- Ensure new members are oriented to the board, including procedures and projects



# Boards and Commissions Workshop

## Staff Liaison Role

- Help resolve questions the board or commission may have about the role of the Council, municipal government, and the board or commission
- Identify and help resolve any problems that may exist with respect to the functioning of the board or commission
- Advise the City Clerk's Office of the following:
  - Attendance challenges
  - Resignations
  - Meeting schedule/location changes
  - Name/address/phone number changes for board members
  - Staff/name/title/phone number changes for staff liaisons



## Boards and Commissions Workshop

### Tips for Success

- Get to know the City.
- Be prepared.
- Be punctual and attend regularly.
- Be positive and affirming.
- Be respectful.
- Be a good listener.
- Be a team player.



## Boards and Commissions Workshop

### Tips for Success

- Be honest and transparent.
- Be responsive.
- Be loyal and a champion for the City.
- Avoid a conflict of interest.
- Support the Board's final decisions.



**Questions?**