

# SOUTH WEBER CITY COUNCIL TRAINING

Open & Public Meeting Act  
Land Use – Ethics



# Utah Open and Public Meetings Act

Utah Code Ann. § 52-4-101, *et. seq*

**“conducts its deliberations openly.”**

# *All meetings are open unless lawfully closed*

## **Meetings**

Utah Code Ann. § 52-4-201

- All meetings open to the public unless closed
- Includes “work meetings” and “executive sessions”

## **Quorum**

Utah Code Ann. § 52-4-103(11)

- Quorum in South Weber = 3
- Members present in person or by electronic telecommunications

# *A public meeting requires:*

## **Public Notice**

Utah Code Ann. § 52-4-202

- 24 hours notice: agenda; date; time & place
  - Exception: emergencies
- Agenda: “reasonable specificity of topics”
- Topic raised by the public – discretion of chair
- Notice: post at principal office; Utah Public Notice Website; and to newspaper or local media correspondent. Other electronic means encouraged.
- Annual notice of scheduled meetings

## **Orderly Conduct**

Utah Code Ann. § 52-4-301

- Disruption of meeting: may remove person if “orderly conduct is seriously compromised”

# ***Electronic Meetings Allowed***

## **Electronic Meeting**

Utah Code Ann. § 52-4-207

- Prior formal authorization of the City is required
- Public notice required
- Anchor location
- Facilities so all can attend, monitor, participate

# *Minutes and Recording Required of All Meetings*

## **Recording**

Utah Code Ann. § 52-4-203(3)

- **“COMPLETE UNEDITED RECORD”** of all open portions – from beginning to end
- Properly labeled: date, time & place
- Available within 3 business days of meeting
- **PERMANENTLY RETAINED**

# *Minutes and Recording Required of All Meetings*

## **Written Minutes Required**

Utah Code Ann. § 52-4-203(1)

## **Written Minutes Include:**

Utah Code Ann. § 52-4-203(2)

- Written minutes and a recording shall be kept of every meeting
- Date, Time and Place
- Names of members present and absent
- The “substance” of all matters proposed, discussed or decided
- Record (by person) of votes – Roll Call vote for Ordinances, Resolutions, and matters where liability is incurred.
- Name of each person providing comments & the substance of comments received
- Any other information from meeting that a member requests be included
- Pending minutes – reasonable time
- Approved minutes – 3 business days after approval → official record
- Permanently retained

# Notice & Hearing

No ordinance or resolution may be adopted by a municipality except in an open and public meeting held pursuant to the Utah Open and Public Meetings Act.



# Notice & Hearing

- Most ordinances and resolutions do not require a public hearing prior to their adoption.
- Notable Exceptions:
  - *Salary schedules for elected officers and officials;*
  - *Tax levies;*
  - *Budgets;*
  - *Land use regulations;*
  - *Impact fees; and*
  - *Disposition of real property*

# ***Closed Meetings: Purposes and Record***

## **Closed Meeting**

Utah Code Ann. § 52-4-204

- Quorum + 2/3 vote
- Must meet subject matter requirements §205
- Publicly announced and record: the reason for closed meeting; location; and each member's vote for or against the closed meeting

## **Closed Meeting**

### **– Purpose**

Utah Code Ann. § 52-4-205

- Discuss individual's character, professional competence, or physical or mental health
- Strategy session – litigation
- Strategy session – real property (value, best possible terms); Sale = prior notice; terms disclosed before final
- Deployment security measures
- Investigative proceedings – criminal misconduct
- Deliberations; procurement evaluation committee; protest; appeals
- Procurement: trade secrets; misc.

# ***Closed Meetings: Purposes and Record***

## **Prohibitions**

Utah Code Ann. § 52-4-205(3)

- Interview – elected position; discuss filling interim or temporary vacancy

## **Closed Meeting – Record**

Utah Code Ann. § 52-4-206

- Recording required: beginning to end; date, time, place; names present and absent & names of others who attend
- Minute allowed (if taken, details above)
- Permanently retained

Exceptions: Recording/minutes not required: character, competence, health; security measures. Presiding officer - affidavit

# *Emergency Meeting*

## **Emergency Meeting**

Utah Code Ann. § 52-4-202(5)

- “Emergency” is not defined
- Attempt to notify all members
- Best notice practicable
- Majority members approve of the meeting

## *Other issues . . .*

### **Chance Meeting – Social Gathering**

§ 52-4-208

- Act does not apply
- Don't conduct any City business

### **Criminal Penalty for Violation**

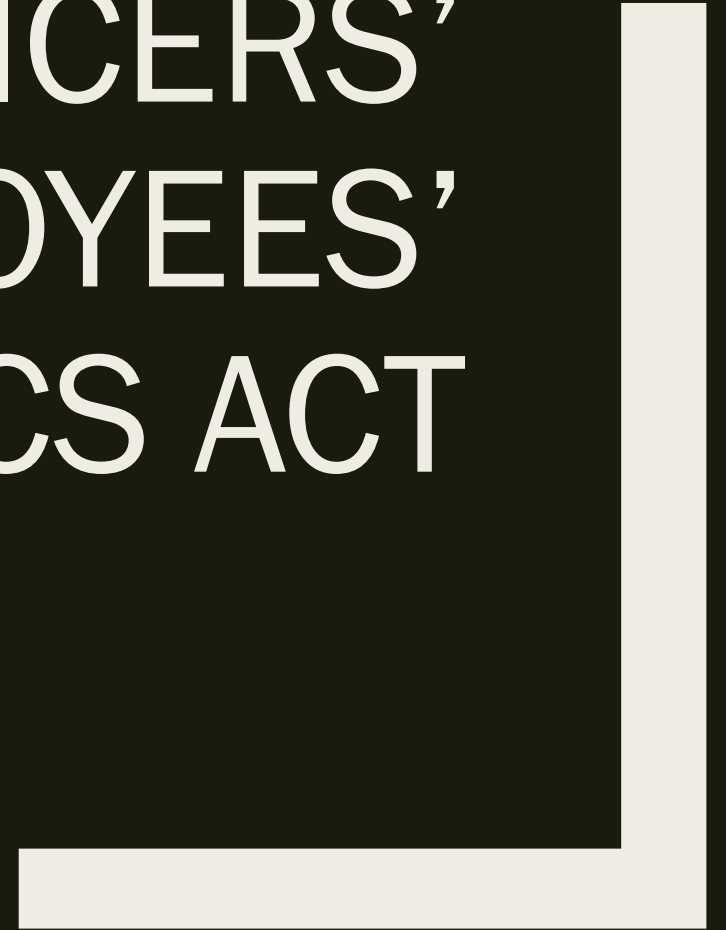
- Class B misdemeanor: 6 months jail; \$1,000 fine

### **Electronic Messaging?**

Utah Code Ann. § 52-4-210

- Text messages? Emails?
- Purposes of act
- Not restricted when meeting not convened
- Interplay with the Government Records Access and Management Act

MUNICIPAL OFFICERS'  
AND EMPLOYEES'  
ETHICS ACT



“ . . . to establish standards of conduct for municipal officers and employees and to require these persons to disclose actual or potential conflicts of interest between their public duties and their personal interests.”



# Municipal Officers & Employees Ethics Act

- Establishes the MINIMUM standards
- Sets up a disclosure system for conflicts of interest
- Describes crimes you can now commit as a public officer or employee



# ● Improper Conduct

- **INFORMATION**: Disclose or improperly use private, controlled, or protected information
- **PRIVILEGES**: Use or attempt to use office for economic gain or to secure special privileges
- **GIFTS**: Knowingly receive, accept, take, seek, or solicit a gift of substantial value or a substantial economic benefit tantamount to a gift.
- **ACCESS/ADVICE**: Be paid to help someone w/ City business (w/o disclosure)



# When is disclosure required?

## Written

- Regulated Business
- Doing Business w/ City
- Personal Interest or Investment
- Assist/Advise on City Transaction\*

## Oral

- Any of items on left
- Open Meeting
- BEFORE Discussion on Topic

\*Disclosure must occur 10 days before agreement w/ City or 10 days before receipt of compensation (whichever is earlier)

# Exceptions to the rule against gifts

- Occasional non-pecuniary gift < \$50
- Award presented for public service
- Bona fide loan - ordinary course
- Political campaign contribution

## UTA trustee calls for review of \$10,000 campaign contribution to board vice chair

By Lisa Riley Roche [@dnewspolitics](#)

Published: July 31, 2017 6:40 pm

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# Point of caution

Appearances matter – there may be consequences even if you adhere to the law.

Lt. Gov. Spencer Cox and Supreme Court Justice Thomas Lee say they broke no ethics rules by using Utah Jazz owner's front-row seats



# Penalties

- Criminal penalties based on the \$ value of the compensation, conflict or assistance;
- “Shall be” dismissed from employment or removed from office;
- Transaction rescinded



# THANK YOU

Jayne Blakesley  
HAYES GODFREY BELL, PC  
[jblakesley@hgblaw.net](mailto:jblakesley@hgblaw.net)