

NEW MEMBER TRAINING

Outline

- ✓ Complying with all laws:
 - Missouri Sunshine Law 101
 - Conflicts of Interest 101

Sunshine Law 101

What is a public meeting?

Any meeting of a public governmental body where public business is discussed, decided, or policy formulated.

Includes commissions, boards, and subcommittees

What is a public meeting?

All public meetings must be open to the public.

What is a public meeting?

Quorum must be present.

If no quorum, then governmental body CAN'T do official business.

What is a public meeting?

A meeting will be considered an open meeting regardless of whether it is in-person, email, via conference call or video conference, internet chat, or other electronic means.

The City requires in person meetings.

What is a public meeting?

- **DOES NOT** include an informal gathering of members of a public governmental body for ministerial or social purposes
 - *UNLESS* intent to avoid the purposes of the Sunshine Law.

What is a public record?

Any record (electronic or otherwise) retained by a public governmental body, including those prepared by outside consultants or contractors.

- Any member who transmits a message relating to public business via e-mail must also transmit the message to the body's custodian of records or "office computer."
- Each record is public unless it falls under an exemption.

What is a public vote?

Any vote that happens in person, by telephone, or by any other electronic means, at any public meeting.

Public votes must also be open to the public for inspection and duplication.

- Must personally vote (no proxies).
- Need physical presence for quorum.

Votes needed for approval may depend on your board or commission

- When in doubt, roll call vote.

Public meeting notice

Notice of all open or closed meetings must be posted at least 24 hours in advance.

NOTE: Posted on bulletin board at City Hall, prominent place where holding the meeting, and on website.

What should a public meeting notice include?

- Date
- Time
- Place of each meeting
- Method of meeting
(City only allows in-person meetings)
- Tentative agenda *that reasonably advises public of the matters to be considered*
- Where public can observe and attend the meeting (for open meetings)

Public meeting minutes

Minutes of all open and closed meetings shall be taken, including a recording of all votes.

What should the minutes include?

- Date
- Time
- Place of meeting
- Members present and absent
- Record of votes taken

For emergency meetings:

- Also include the good cause justification for not giving proper notice or why meeting was held in place not accessible to the public.

What is a closed meeting?

A public meeting or vote may only be closed if it falls under one of the 610.021 exemption categories.

Closing a meeting or vote is discretionary.

EXEMPTIONS UNDER 610.021

- 1) Legal actions, causes of action or litigation
- 2) Leasing, purchase or sale of real estate
- 3) Hiring, firing, disciplining or promoting employees
- 4) State militia or national guard
- 5) Non-judicial mental or physical health proceedings of identifiable individuals
- 6) Scholastic records (except to parents for children under 18)
- 7) Testing and examination materials
- 8) Welfare cases of identifiable individuals
- 9) Preparation for labor negotiations
- 10) Software codes for electronic data processing
- 11) Specs for competitive bidding
- 12) Sealed bids, drawing and proposals, until open, executed, rejected

MORE EXEMPTIONS

- 13) Individually identifiable personnel records – does not apply to names, positions, salaries and length of service for all employees
- 14) Protected by other laws
- 15) Scientific and technological innovations with proprietary interests
- 16) Municipal hotlines (abuse and wrongdoing)
- 17) Confidential communications with auditors
- 18) Guidelines and policies regarding public safety
- 19) Proposed security systems and structural plans of real property
- 20) Security systems and access codes of real property
- 21) Info on computer systems and networking
- 22) Credit card numbers and personal identifiers
- 23) Records submitted to public higher education associated with proposals to license IP or perform research that contains certain business info that may endanger competitiveness

What's needed to go from an open to a closed meeting?

Must:

- Have majority of a quorum vote for closing.
- Record each member's vote in minutes.
- Announce publicly the specific exception under 610.021 authorizing closure and enter it into the minutes.
- Record each member's vote taken during closed meeting in closed minutes, unless required to be in open minutes.
- CANNOT* discuss any business which does not directly relate to the specific reason for the closed meeting.

Penalties for violating Sunshine

- A person who “**knowingly**” violates the Missouri Sunshine Law is subject to a fine of **up to \$1,000**.
- A person who “**purposely**” violates the law is subject to a fine of **up to \$5,000**.
- In addition, **costs and reasonable attorney fees may be assessed** against the member or the governmental body.

Conflicts of Interest 101

Conflicts of Interest

Generally, a member is prohibited from participating in any matter which could result in a financial gain to self, spouse or dependent children.

Common Conflicts of Interest

Arise, when you have to make or influence a decision involving:

- (1) any non-profit org. on which you serve on the board of directors or are an officer or employee;
- (2) a business owned in whole or in part by you or immediate family (must be greater than ten percent ownership interest in the company);
- (3) a business by where you, your spouse, or dependent children are employed; or
- (4) when the outcome could otherwise be economically advantageous to you, your spouse, dependent children, or business associated with you.

Conflicts of Interest under 105.452, RSMo.

You can't act or not act in your official capacity because

- of any payment, or
- offer to pay, or
- promise to pay, or
- receipt of anything of actual pecuniary value paid or payable, or received or receivable,

to yourself or any third person, including

- any gift or campaign contribution, made or received in relationship to or as a condition of the performance of an official act, other than compensation to be paid by the state or political subdivision.

Conflicts of Interest under 105.452, RSMo.

Can't use or disclose confidential information obtained in the course of or by reason of your employment or official capacity in any manner with intent to result in financial gain for yourself or any other person.

Conflicts of Interest for Quasi Judicial groups under 105.464, RSMo.

No person serving in a quasi-judicial capacity can participate in a proceeding in which the person knows that a party is any of the following the person or the person's great-grandparent, grandparent, parent, stepparent, guardian, foster parent, spouse, former spouse, child, stepchild, foster child, ward, niece, nephew, brother, sister, uncle, aunt, or cousin.

Penalty for violating Conflict of Interest Laws

Any person guilty of knowingly violating any of the provisions of sections 105.450 to 105.498 shall be punished as follows:

1. For the first offense, such person is guilty of a class B misdemeanor;
2. For the second and subsequent offenses, such person is guilty of a class E felony.

How to handle Conflicts of Interest

- If there is a conflict of interest, you should disclose the conflict to the other board members and abstain from all discussions and votes on the matter.
 - If practical, leave the room while the matter is discussed and acted upon.
- If there is any doubt, the safest course of action is to abstain from participating in discussions on the issues and leave the room.

Appearance of conflict of interest

In some cases, a matter may be pending before a board that will not benefit the member or a member of his or her family in any way, but the public may *perceive* it otherwise.

Appearance of Conflict of Interest

- In those cases, you *may consider* excusing yourself from the discussion or vote or disclosing the circumstance and declaring that it will not impact any decision-making on the matter
- If in doubt, disclose and reach out to liaison and they can discuss with Law Dept.

Your staff liaison is your friend.

QUESTIONS ?

Thank you for your service!

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