

The Open Public Meetings Act

Presentation by
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Background

- The Open Public Meetings Act (OPMA) was passed in 1971 by the Washington Legislature to ensure that actions and deliberations of public entities are open to the public.
- The OPMA allows citizens to be informed about the actions of public agencies by permitting attendance at most meetings of public agencies.

Meetings

- A meeting for OPMA purposes is held any time a **quorum** of the Trustees are present, and "**action**" is taken.
 - **Quorum** is a majority of the Trustees.
 - Includes study sessions and retreats.
 - Includes committees designated by the Trust to act on behalf of the Trust.

Meetings (cont'd)

- **"Action"** is broadly defined as the transaction of official business of the Trust by the Trustees, including receipt of public testimony, deliberations, discussions, considerations, reviews, evaluations, and final actions.
- **"Action"** does not typically include times of travel or socializing.

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Meetings (cont'd)

- **Regular meetings** are those held in accordance with a periodic schedule declared by the Trust.
- Other meetings are called **special** meetings.

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Electronic Meetings

- Meetings need not be in person. They can occur via electronic media or telephone.
- Email policy:
 - Email conversations should be limited to less than a majority of the Trustees.
 - Email conversations should not be held on matters that may reasonably come before the Trust.

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Procedures for Regular Meetings

▣ Required Procedures for Setting Meetings:

- The schedule for regular meetings is established by Trust policy.
- The schedule identifies the date, time, and place of the meetings.
- Notice of any changes to the meeting schedule are required to be published.

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Agendas for Regular Meetings

▣ Agendas are recommended for regular meetings.

- An agenda may be changed at any time before or during a regular meeting.
- Members of the public do not have the right to place matters on the Trust's agenda.

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Minutes of Regular Meetings

▣ Minutes are required to be taken at regular meetings and be available for public inspection.

- Minutes should include a description of the date, time, location, members present, presiding officer, items discussed, motions made, results of votes, and time of adjournment.

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Special Meetings

- Any "meeting" that is not a regular meeting of the Trustees is considered a special meeting.
- Each Trustee must receive or waive written notice 24 hours prior to the meeting.
- Radio or television stations or newspapers that have requested to be informed of special meetings must receive the same notification as Trustees.

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Special Meetings (cont'd)

- Notices of special meetings must include the time and place of the meeting as well as an agenda of business to be transacted.
- The Trustees may not take "final action" on any matter that is not part of the agenda.

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Exceptions to the OPMA

- The following meetings are exempt from some or all of the OPMA requirements:
 - Executive sessions.
 - Meetings held in a quasi-judicial capacity.
 - Emergency meetings.

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Executive Sessions

- Executive sessions occur without public attendance.
- If the Board goes into executive session, the chair must announce during a public meeting the general purpose of the executive session and estimate how long it will run.

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Executive Sessions (cont'd)

- Minutes of an executive session should reflect the statutory basis for the executive session and the time the session started and ended.
- Detailed minutes of an executive session are not required or recommended.

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Statutory Reasons for an Executive Session

- To receive and evaluate complaints against an employee or Trustee, but the person subject to the complaint may open the meeting to the public.
- To evaluate the qualifications of an applicant for public employment or review the performance of a public employee, but final action must taken in public.

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Statutory Reasons for an Executive Session (cont'd)

- To discuss with legal counsel representing the Trust matters relating to enforcement actions, litigation, or potential litigation to which the Trust, the Trustees, or a Trustee acting in her/his official capacity, is or is likely to become a party, if public knowledge of the discussion will be adverse to the Trust.

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Statutory Reasons for an Executive Session (cont'd)

- "Potential litigation" means :
 - Litigation that has been specifically threatened
 - Litigation that the Trust reasonably believes may be commenced; or
 - Litigation or legal risks of a proposed action or current practice when public discussion of the litigation or legal risks is likely to result in an adverse legal or financial consequence to the Trust.

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Quasi-Judicial Meetings

- Such meetings occur when the Trust is deciding issues between specific parties, such as an appeal.
- Because of the privacy interests of the individuals involved in such matters, these meetings are not open to the public.

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Emergency Meetings

- No notice is required for special meetings held to deal with emergencies involving the actual or likely injury to persons or property if the notice requirement is impracticable and would increase the likelihood of injury or damage.
- Emergency exceptions are rare, and notice procedures should be followed when it is practical to do so.

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Violations of the OPMA

- Failure to follow the mandates of the OPMA:
 - Any action taken at an improper meeting is invalid.
 - Civil penalties in the form of fines may be assessed against Trustees.
 - Attorneys' fees and costs are recoverable by a party successfully alleging a violation of the OPMA.

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Questions?

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