

BOARD INFORMATION

The Weston County Board of Commissioners appoints volunteers to serve on various county boards.

This packet contains the following:

- Wyoming Statute 16-4-401 through 16-4-408 regarding Public Meetings
- Wyoming Statute 16-4-201 through 16-4-205 regarding Public Records
- Wyoming Statute 16-4-405 regarding Executive Sessions
- Handbook for Municipal Elected Officials regarding Wyoming Open Meetings Law

We also encourage you to complete a board training course. An online version is available on the University of Wyoming website at <https://extension.catalog.instructure.com/>.

We have placed our confidence in you to serve to the people of Weston County. Thank you for being community-minded and volunteering your time and expertise!

ARTICLE 4
PUBLIC MEETINGS

16-4-401. Statement of purpose.

The agencies of Wyoming exist to conduct public business. Certain deliberations and actions shall be taken openly as provided in this act.

16-4-402. Definitions.

(a) As used in this act:

(i) "Action" means the transaction of official business of an agency including a collective decision, a collective commitment or promise to make a positive or negative decision, or an actual vote upon a motion, proposal, resolution, regulation, rule, order or ordinance at a meeting;

(ii) "Agency" means any authority, bureau, board, commission, committee, or subagency of the state, a county, a municipality or other political subdivision which is created by or pursuant to the Wyoming constitution, statute or ordinance, other than the state legislature and the judiciary;

(iii) "Meeting" means an assembly of at least a quorum of the governing body of an agency which has been called by proper authority of the agency for the expressed purpose of discussion, deliberation, presentation of information or taking action regarding public business;

(iv) "Assembly" means communicating in person, by means of telephone or electronic communication, or in any other manner such that all participating members are able to communicate with each other contemporaneously;

(v) "This act" means W.S. 16-4-401 through 16-4-408.

16-4-403. Meetings to be open; participation by public; minutes.

(a) All meetings of the governing body of an agency are public meetings, open to the public at all times, except as otherwise provided. No action of a governing body of an agency shall be taken except during a public meeting following notice of the meeting in accordance with this act. Action taken at a meeting not in conformity with this act is null and void and not merely voidable.

(b) A member of the public is not required as a condition of attendance at any meeting to register his name, to supply information, to complete a questionnaire, or fulfill any other condition precedent to his attendance. A person seeking recognition at the meeting may be required to give his name and affiliation.

(c) Minutes of a meeting:

(i) Are required to be recorded but not published from meetings when no action is taken by the governing body;

(ii) Are not required to be recorded or published for day-to-day administrative activities of an agency or its officers or employees.

(d) No meeting shall be conducted by electronic means or any other form of communication that does not permit the public to hear, read or otherwise discern meeting discussion contemporaneously. Communications outside a meeting, including, but not limited to, sequential communications among members of an agency, shall not be used to circumvent the purpose of this act.

16-4-404. Types of meetings; notice; recess.

(a) In the absence of a statutory requirement, the governing body of an agency shall provide by ordinance, resolution, bylaws or rule for holding regular meetings unless the agency's normal business does not require **regular meetings** in which case the agency shall provide notice of its next meeting to any person who requests notice. A request for notice may be made for future meetings of an agency. The request shall be in writing and renewed annually to the agency.

(b) **Special meetings** may be called by the presiding officer of a governing body by giving verbal, electronic or written notice of the meeting to each member of the governing body and to each newspaper of general circulation, radio or television station requesting the notice. The notice shall specify the time and place of the special meeting and the business to be transacted and shall be issued at least eight (8) hours prior to the commencement of the meeting. No other business shall be considered at a special meeting. Proof of delivery of verbal notice to the newspaper of general circulation, radio or television station may be made by affidavit of the clerk or other employee or officer of the agency charged or responsible for distribution of the notice of the meeting.

(c) The governing body of an agency may recess any regular, special, or recessed regular or special meeting to a place and at a time specified in an order of recess. A copy of the order of recess shall be conspicuously posted on or near the door of the place where the meeting or recessed meeting was held.

(d) The governing body of an agency may hold an emergency meeting on matters of serious immediate concern to take temporary action without notice. Reasonable effort shall be made to offer public notice. All action taken at an emergency meeting is of a temporary nature and in order to become permanent shall be reconsidered and acted upon at an open public meeting within forty-eight (48) hours, excluding weekends and holidays, unless the event constituting the emergency continues to exist after forty-eight (48) hours. In such case the governing body may reconsider and act upon the temporary action at the next regularly scheduled meeting of the agency, but in no event later than thirty (30) days from the date of the emergency action.

(e) Day-to-day administrative activities of an agency, its officers and its employees shall not be subject to the notice requirements of this section.

16-4-405. Executive sessions.

(a) A governing body of an agency may hold executive sessions not open to the public:

(i) With the attorney general, county attorney, district attorney, city attorney, sheriff, chief of police or their respective deputies, or other officers of the law, on matters posing a threat to the security of public or private property, or a threat to the public's right of access;

(ii) To consider the appointment, employment, right to practice or dismissal of a public officer, professional person or employee, or to hear complaints or charges brought against an employee, professional person or officer, unless the employee, professional person or officer requests a public hearing. The governing body may exclude from any public or private hearing during the examination of a witness, any or all other witnesses in the matter being investigated. Following the hearing or executive session, the governing body may deliberate on its decision in executive sessions;

(iii) On matters concerning litigation to which the governing body is a party or proposed litigation to which the governing body may be a party;

(iv) On matters of national security;

(v) When the agency is a licensing agency while preparing, administering or grading examinations;

(vi) When considering and acting upon the determination of the term, parole or release of an individual from a correctional or penal institution;

(vii) To consider the selection of a site or the purchase of real estate when the publicity regarding the consideration would cause a likelihood of an increase in price;

(viii) To consider acceptance of gifts, donations and bequests which the donor has requested in writing be kept confidential;

(ix) To consider or receive any information classified as confidential by law;

(x) To consider accepting or tendering offers concerning wages, salaries, benefits and terms of employment during all negotiations;

(xi) To consider suspensions, expulsions or other disciplinary action in connection with any student as provided by law.

(b) Minutes shall be maintained of any executive session. Except for those parts of minutes of an executive session reflecting a members' objection to the executive session as being in violation of this act, minutes and proceedings of executive sessions shall be confidential and produced only in response to a valid court order.

(c) Unless a different procedure or vote is otherwise specified by law, an executive session may be held only pursuant to a motion that is duly seconded and carried by majority vote of the members of the governing body in attendance when the motion is made. A motion to hold an executive session which specifies any of the reasons set forth in paragraphs (a)(i) through (xi) of this section shall be sufficient notice of the issue to be considered in an executive session.

16-4-406. Disruption of public meetings.

If any public meeting is willfully disrupted by a person or group of persons so as to render the orderly conduct of the meeting unfeasible, and order cannot be restored by the removal of the person or persons who are willfully interrupting the meeting, the governing body of an agency may order the removal of the person or group from the meeting room and continue in session, or may recess the meeting and reconvene at another location. Only matters appearing on the agenda may be acted upon in a meeting recessed to another location. A governing body of an agency shall establish procedures for readmitting an individual or individuals not responsible for disturbing the conduct of a meeting. Duly accredited members of the press or other news media except those who participated in a disturbance shall be allowed to attend any meeting permitted by this section.

16-4-407. Conflict of law.

If the provisions of this act conflict with any other statute, the provisions of this act shall control.

16-4-408. Penalty.

(a) Any member or members of an agency who knowingly or intentionally violate the provisions of this act shall be liable for a civil penalty not to exceed seven hundred fifty dollars (\$750.00) except as provided in this subsection. Any member of the governing body of an agency who attends or remains at a meeting knowing the meeting is in violation of this act shall be liable under this subsection unless minutes were taken during the meeting and the parts thereof recording the member's objections are made public or at the next regular public meeting the member objects to the meeting where the violation occurred and asks that the objection be recorded in the minutes.

(b) If any action is prohibited both by this act and any provision of title 6, the provisions of this act shall not apply and the provisions of title 6 shall apply.

ARTICLE 2
PUBLIC RECORDS

16-4-201. Definitions.

(a) As used in this act:

(i) "Custodian" means the official custodian or any authorized person having personal custody and control of the public records in question;

(ii) "Official custodian" means any officer or employee of the state or any agency, institution or political subdivision thereof, who is responsible for the maintenance, care and keeping of public records, regardless of whether the records are in his actual personal custody and control;

(iii) "Person in interest" means the person who is the subject of a record or any representative designated by the person, except if the subject of the record is under legal disability or is the dependent high school student of his parents, "person in interest" means the parent or duly appointed legal representative;

(iv) "Political subdivision" means every county, city and county, city, incorporated and unincorporated town, school district and special district within the state;

(v) "Public records" when not otherwise specified includes any information in a physical form created, accepted, or obtained by the state or any agency, institution or political subdivision of the state in furtherance of its official function and transaction of public business which is not privileged or confidential by law. Without limiting the foregoing, the term "public records" includes any written communication or other information, whether in paper, electronic, or other physical form, received by the state or any agency, institution or political subdivision of the state in furtherance of the transaction of public business of the state or agency, institution or political subdivision of the state, whether at a meeting or outside a meeting;

(vi) Public records shall be classified as follows:

(A) "Official public records" includes all original vouchers, receipts and other documents necessary to isolate and prove the validity of every transaction relating to the receipt, use and disposition of all public property and public income from all sources whatsoever; all agreements and contracts to which the state or any agency or subdivision thereof is a party; all fidelity, surety and performance bonds; all claims filed against the state or any agency or subdivision thereof; all records or documents required by law to be filed with or kept by any agency or the state of

Wyoming; and all other documents or records determined by the records committee to be official public records;

(B) "Office files and memoranda" includes all records, correspondence, exhibits, books, booklets, drawings, maps, blank forms, or documents not defined and classified in subparagraph (A) of this subsection as official public records; all duplicate copies of official public records filed with any agency of the state or subdivision thereof; all documents and reports made for the internal administration of the office to which they pertain but not required by law to be filed or kept with the office; and all other documents or records, determined by the records committee to be office files and memoranda.

(vii) Repealed By Laws 2012, Ch. 74, § 2.

(viii) "This act" means W.S. 16-4-201 through 16-4-205;

(ix) "Application" means a written request for a public record. However, a custodian may in his discretion deem a verbal request to be an application;

(x) "Information" means opinions, facts, or data of any kind and in whatever physical form kept or maintained, including, but not limited to, written, aural, visual, electronic or other physical form.

16-4-202. Right of inspection; rules and regulations; unavailability.

(a) All public records shall be open for inspection by any person at reasonable times, during business hours of the state entity or political subdivision, except as provided in this act or as otherwise provided by law, but the official custodian of any public records may make rules and regulations with reference to the inspection of the records as is reasonably necessary for the protection of the records and the prevention of unnecessary interference with the regular discharge of the duties of the custodian or his office.

(b) If the public records requested are not in the custody or control of the person to whom application is made, the custodian or authorized person having personal custody and control of the public records shall notify the applicant within seven (7) business days from the date of acknowledged receipt of the request of the unavailability of the records sought, unless good cause exists preventing a response within such time period. In the event the applicant is not satisfied that good cause exists, the applicant may petition the district court for a determination as to whether the custodian has demonstrated good cause existed.

(c) If the public records requested are in the custody and control of the person to whom application is made but are in active use or in storage, and therefore not available at the time an applicant asks to examine them, the custodian or authorized person having personal custody and control of the public records shall notify the applicant of this situation within seven (7) business days from the date of acknowledged receipt of the request, unless good cause exists preventing a response within such time period. In the event the applicant is not satisfied that good cause exists, the applicant may petition the district court for a determination as to whether the custodian has demonstrated good cause existed. If a public record is readily available, it shall be released immediately to the applicant so long as the release does not impair or impede the agency's ability to discharge its other duties.

(d) If a public record exists primarily or solely in an electronic format, the custodian of the record shall so inform the requester. Electronic record inspection and copying shall be subject to the following:

(i) The reasonable costs of producing a copy of the public record shall be borne by the party making the request. The costs may include the cost of producing a copy of the public record and the cost of constructing the record, including the cost of programming and computer services;

(ii) An agency shall provide an electronic record in alternative formats unless doing so is impractical or impossible;

(iii) An agency shall not be required to compile data, extract data or create a new document to comply with an electronic record request if doing so would impair the agency's ability to discharge its duties;

(iv) An agency shall not be required to allow inspection or copying of a record in its electronic format if doing so would jeopardize or compromise the security or integrity of the original record or of any proprietary software in which it is maintained;

(v) Nothing in this section shall prohibit the director of the office of homeland security from enacting any rules pursuant to his authority under W.S. 19-13-104(d)(v).

16-4-203. Right of inspection; grounds for denial; access of news media; order permitting or restricting disclosure; exceptions.

(a) The custodian of any public records shall allow any person the right of inspection of the records or any portion thereof except on one (1) or more of the following grounds or as provided in subsection (b) or (d) of this section:

(i) The inspection would be contrary to any state statute;

(ii) The inspection would be contrary to any federal statute or regulation issued thereunder having the force and effect of law; or

(iii) The inspection is prohibited by rules promulgated by the supreme court or by the order of any court of record.

(b) The custodian may deny the right of inspection of the following records, unless otherwise provided by law, on the ground that disclosure to the applicant would be contrary to the public interest:

(i) Records of investigations conducted by, or of intelligence information or security procedures of, any sheriff, county attorney, city attorney, the attorney general, the state auditor, police department or any investigatory files compiled for any other law enforcement or prosecution purposes;

(ii) Test questions, scoring keys and other examination data pertaining to administration of a licensing examination and examination for employment or academic examination. Written promotional examinations and the scores or results thereof shall be available for inspection, but not copying or reproduction, by the person in interest after the examination has been conducted and graded;

(iii) The specific details of bona fide research projects being conducted by a state institution;

(iv) Except as otherwise provided by Wyoming statutes or for the owner of the property, the contents of real estate appraisals made for the state or a political subdivision thereof, relative to the acquisition of property or any interest in property for public use, until such time as title of the property or property interest has passed to the state or political subdivision. The contents of the appraisal shall be available to the owner of the property or property interest at any time;

(v) Interagency or intraagency memoranda or letters which would not be available by law to a private party in litigation with the agency;

(vi) To the extent that the inspection would jeopardize the security of any structure owned, leased or operated by the state or any of its political subdivisions, facilitate the planning of a terrorist attack or endanger the life or physical safety of an individual, including:

(A) Vulnerability assessments, specific tactics, emergency procedures or security procedures contained in plans or procedures designed to prevent or respond to terrorist attacks or other security threats;

(B) Building plans, blueprints, schematic drawings, diagrams, operational manuals or other records that reveal the building's or structure's internal layout, specific location, life and safety and support systems, structural elements, surveillance techniques, alarms, security systems or technologies, operational and transportation plans or protocols, personnel deployments for airports and other mass transit facilities, bridges, tunnels, emergency response facilities or structures, buildings where hazardous materials are stored, arenas, stadiums and waste and water systems;

(C) Records of any other building or structure owned, leased or operated by the state or any of its political subdivisions that reveal the building's or structure's life and safety systems, surveillance techniques, alarm or security systems or technologies, operational and evacuation plans or protocols or personnel deployments; and

(D) Records prepared to prevent or respond to terrorist attacks or other security threats identifying or describing the name, location, pharmaceutical cache, contents, capacity, equipment, physical features, or capabilities of individual medical facilities, storage facilities or laboratories established, maintained, or regulated by the state or any of its political subdivisions.

(vii) An application for the position of president of an institution of higher education, letters of recommendation or references concerning the applicant and records or information relating to the process of searching for and selecting the president of an institution of higher education, if the records or information could be used to identify a candidate for the position. As used in this paragraph "institution of higher education" means the University of Wyoming and any community college in this state.

(c) If the right of inspection of any record falling within any of the classifications listed in this section is allowed to any officer or employee of any newspaper, radio station, television station or other person or agency in the business of public dissemination of news or current events, it may be allowed to all news media.

(d) The custodian shall deny the right of inspection of the following records, unless otherwise provided by law:

(i) Medical, psychological and sociological data on individual persons, exclusive of coroners' verdicts and written dockets as provided in W.S. 7-4-105(a);

(ii) Adoption records or welfare records on individual persons;

(iii) Personnel files except those files shall be available to the duly elected and appointed officials who supervise the work of the person in interest. Applications, performance ratings and scholastic achievement data shall be available only to the person in interest and to the duly elected and appointed officials who supervise his work. Employment contracts, working agreements or other documents setting forth the terms and conditions of employment of public officials and employees are not considered part of a personnel file and shall be available for public inspection;

(iv) Letters of reference;

(v) Trade secrets, privileged information and confidential commercial, financial, geological or geophysical data furnished by or obtained from any person;

(vi) Library, archives and museum material contributed by private persons, to the extent of any limitations placed thereon as conditions of the contributions;

(vii) Hospital records relating to medical administration, medical staff, personnel, medical care and other medical information, whether on individual persons or groups, or whether of a general or specific classification;

(viii) School district records containing information relating to the biography, family, physiology, religion, academic achievement and physical or mental ability of any student except to the person in interest or to the officials duly elected and appointed to supervise him;

(ix) Library patron transaction and registration records except as required for administration of the library or except as requested by a custodial parent or guardian to inspect the records of his minor child;

(x) Information obtained through a 911 emergency telephone system or through a verification system for motor vehicle insurance or bond as provided under W.S. 31-4-103(e) except to law enforcement personnel or public agencies for the purpose of conducting official business, to the person in interest, or pursuant to a court order;

(xi) Records or information compiled solely for purposes of investigating violations of, and enforcing, internal personnel rules or personnel policies the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(xii) Information regarding the design, elements and components, and location of state information technology security systems and physical security systems;

(xiii) Records or information relating to individual diagnoses of contagious, infectious, communicable, toxic and genetic diseases maintained or collected by the Wyoming state veterinary laboratory as provided in W.S. 21-17-308(e);

(xiv) Information concerning an agricultural operation, farming or conservation practice, or the land itself, if the information was provided by an agricultural producer or owner of agricultural land in order to participate in a program of the state or any agency, institution or political subdivision of the state. The custodian shall also deny the right of inspection to geospatial information maintained about the agricultural land or operations. Provided, however, that if otherwise permitted by law, the inspection of the information described in this paragraph shall be allowed in accordance with the following:

(A) The custodian may allow the right of inspection when responding to a disease or pest threat to agricultural operations, if the custodian determines that a threat to agricultural operations exists and the disclosure of information is necessary to assist in responding to the disease or pest threat as authorized by law;

(B) The custodian shall allow the right of inspection of payment information under a program of the state or of any agency, institution or political subdivision of the state, including the names and addresses of recipients of payments;

(C) The custodian shall allow the right of inspection if the information has been transformed into a statistical or aggregate form without naming:

(I) Any individual owner, operator or producer; or

(II) A specific data gathering site.

(D) The custodian shall allow the right of inspection if the disclosure of information is pursuant to the consent of the agricultural producer or owner of the agricultural land;

(E) As used in this paragraph:

(I) "Agricultural operation" means the production and marketing of agricultural products or livestock;

(II) "Agricultural producer" means any producer of livestock, crops or dairy products from an agricultural operation.

(xv) Within any record held by an agency, any income tax return or any individual information derived by the agency from an income tax return, however information derived from these documents may be released if sufficiently aggregated or redacted so that the persons or entities involved cannot be identified individually;

(xvi) Except as required in a contested case hearing, any individual records involved in any workers' compensation claim, however information derived from these documents may be released if sufficiently aggregated or redacted so that the persons or entities involved cannot be identified individually.

(e) If the custodian denies access to any public record, the applicant may request a written statement of the grounds for the denial. The statement shall cite the law or regulation under which access is denied and shall be furnished to the applicant.

(f) Any person denied the right to inspect any record covered by this act may apply to the district court of the district wherein the record is found for an order directing the custodian of the record to show cause why he should not permit the inspection of the record.

(g) If, in the opinion of the official custodian of any public record, disclosure of the contents of the record would do substantial injury to the public interest, notwithstanding the fact that the record might otherwise be available to public inspection, he may apply to the district court of the district in which the record is located for an order permitting him to restrict disclosure. After hearing, the court may issue an order upon a finding that disclosure would cause substantial injury to the public interest. The person seeking permission to examine the record shall have notice of the hearing served upon him in the manner provided for service of process by the Wyoming Rules of Civil Procedure and has the right to appear and be heard.

(h) Notwithstanding any other provision of this section, the following applies to the Wyoming natural diversity database located at the University of Wyoming and any report prepared by the custodian from that database:

(i) The custodian may charge a reasonable fee for searching the database and preparing a report from that database information. The interpretation of the database in a report shall not contain recommendations for restrictions on any public or private land use;

(ii) The custodian shall allow the inspection of all records in the database at a level of spatial precision equal to the township, but at no more precise level;

(iii) Research reports prepared by the custodian funded completely from nonstate sources are subject to paragraph (b)(iii) of this section;

(iv) Any record contained in the database pertaining to private land shall not be released by the University of Wyoming without the prior written consent of the landowner. Nothing in this paragraph prohibits the release of any information which would otherwise be available from any other information source available to the public if the original source is cited.

16-4-204. Right of inspection; copies, printouts or photographs; fees.

(a) In all cases in which a person has the right to inspect and copy any public records he may request that he be furnished copies, printouts or photographs for a reasonable fee to be set by the official custodian. Where fees for certified copies or other copies, printouts or photographs of the record are specifically prescribed by law, the specific fees shall apply. Nothing in this section shall be construed as authorizing a fee to be charged as a condition of making a public record available for inspection.

(b) If the custodian does not have the facilities for making copies, printouts or photographs of records which the applicant has the right to inspect, then the applicant shall be granted access to the records for the purpose of making copies, printouts or photographs. The copies, printouts or photographs shall be made while the records are in the possession, custody and control of the custodian thereof and are subject to the supervision of the custodian. When practical the copy work shall be made in the place where the records are kept, but if it is impractical to do so, the custodian may allow arrangements to be made for this purpose. If other facilities are necessary the cost of providing them shall be paid by the person desiring a copy, printout or photograph of the records. The official custodian may establish a reasonable schedule of time for making copies, printouts or photographs and may charge a reasonable fee for the services rendered by him or his deputy in supervising the copying, printing out or photographing as he may charge for furnishing copies under this section.

(c) After July 1, 2003, any fees or charges assessed by a custodian of a public record shall first be authorized by duly enacted or adopted statute, rule, resolution, ordinance, executive order or other like authority.

(d) All state agencies may adopt rules and regulations pursuant to the Wyoming Administrative Procedure Act establishing reasonable fees and charges that may be assessed for the costs and services set forth in this section.

(e) The department of administration and information shall adopt uniform rules for the use of state agencies establishing procedures, fees, costs and charges for inspection, copies and production of public records under W.S. 16-4-202(d)(i), 16-4-203(h)(i) and 16-4-204.

16-4-205. Civil penalty.

Any person who knowingly or intentionally violates the provisions of this act is liable for a penalty not to exceed seven hundred fifty dollars (\$750.00). The penalty may be recovered in a civil action and damages shall be assessed by the court. Any action pursuant to this section shall be initiated by the attorney general or the appropriate county attorney.

§ 16-4-405. EXECUTIVE SESSIONS.

(a) A governing body of an agency may hold executive sessions not open to the public:

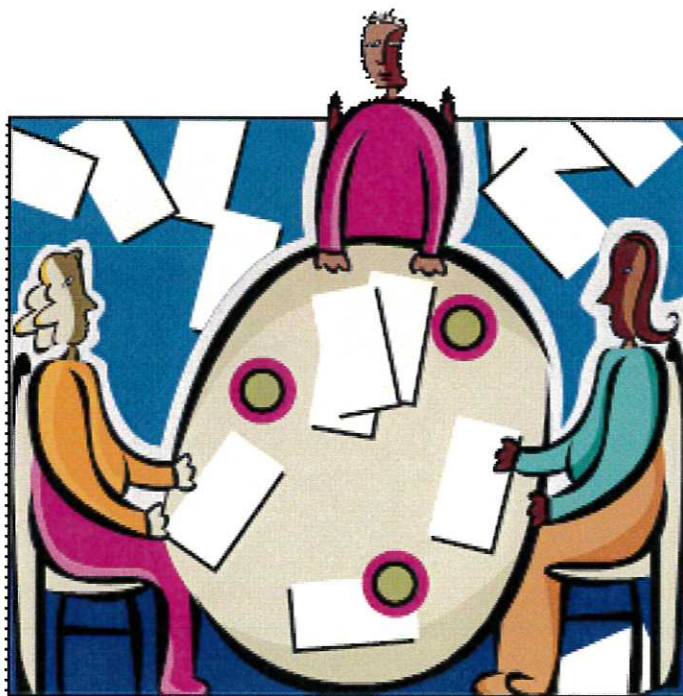
- **(i)** With the attorney general, county attorney, district attorney, city attorney, sheriff, chief of police or their respective deputies, or other officers of the law, on matters posing a threat to the security of public or private property, or a threat to the public's right of access;
- **(ii)** To consider the appointment, employment, right to practice or dismissal of a public officer, professional person or employee, or to hear complaints or charges brought against an employee, professional person or officer, unless the employee, professional person or officer requests a public hearing. The governing body may exclude from any public or private hearing during the examination of a witness, any or all other witnesses in the matter being investigated. Following the hearing or executive session, the governing body may deliberate on its decision in executive sessions;
- **(iii)** On matters concerning litigation to which the governing body is a party or proposed litigation to which the governing body may be a party;
- **(iv)** On matters of national security;
- **(v)** When the agency is a licensing agency while preparing, administering or grading examinations;
- **(vi)** When considering and acting upon the determination of the term, parole or release of an individual from a correctional or penal institution;
- **(vii)** To consider the selection of a site or the purchase of real estate when the publicity regarding the consideration would cause a likelihood of an increase in price;
- **(viii)** To consider acceptance of gifts, donations and bequests which the donor has requested in writing be kept confidential;
- **(ix)** To consider or receive any information classified as confidential by law;
- **(x)** To consider accepting or tendering offers concerning wages, salaries, benefits and terms of employment during all negotiations;
- **(xi)** To consider suspensions, expulsions or other disciplinary action in connection with any student as provided by law.

(b) Minutes shall be maintained of any executive session. Except for those parts of minutes of an executive session reflecting a members' objection to the executive session as being in violation of this act, minutes and proceedings of executive sessions shall be confidential and produced only in response to a valid court order.

(c) Unless a different procedure or vote is otherwise specified by law, an executive session may be held only pursuant to a motion that is duly seconded and carried by majority vote of the members of the governing body in attendance when the motion is made. A motion to hold an executive session which specifies any of the reasons set forth in paragraphs (a)(i) through (xi) of this section shall be sufficient notice of the issue to be considered in an executive session.

WYOMING OPEN MEETINGS LAW

A HANDBOOK FOR MUNICIPAL ELECTED OFFICIALS



WYOMING ASSOCIATION OF MUNICIPALITIES 2010

*The agencies of Wyoming exist to conduct public business.
Certain deliberations and actions shall be taken openly as provided in this act.”
——Wyoming Statutes §16-4-401*



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Bobbe Fitzhugh and Joe Coyne, principals - www.consultCBI.com*

WYOMING OPEN MEETINGS LAW

Municipal staff and elected officials should be ever mindful that municipal business is public business, and the public has a right to know how its servants are conducting its business. Representative democracy relies on the informed trust of the citizen. City or town council members serve their communities at a crucial place - that level closest to the people. On some occasions there is an inclination to hold a restricted session in order to avoid hurt feelings or embarrassment, or save money. However, without the informed trust of the citizens, democracy is jeopardized. The best practice is to always conduct the maximum amount of the public's business in public.

Wyoming municipalities are required to comply with the same general public meeting laws as other governmental agencies (Wyo. Stat. 15-1-105).

Those laws, initially adopted in 1973, are known as the Wyoming Public Meetings Law or the Wyoming Open Meetings Law ("WOML"). Wyoming Statutes Title 16, Article 4, Sections 401 through 408 contain the relevant statutory provisions.

STATEMENT OF PURPOSE

The statement of purpose of the WOML is:

*"The agencies of Wyoming exist to conduct public business. Certain deliberations and actions shall be taken openly as provided in this act."
(Wyo. Stat. 16-4-401)*



TO WHOM DOES THE WYOMING OPEN MEETINGS LAW APPLY?

The WOML applies to all agencies and divisions of the state, all counties, municipalities or other political subdivisions created by the Wyoming Constitution, a statute or ordinance, except the state legislature and the judiciary.

The WOML also applies to any sub-agency of a municipality that has been created or authorized by the Wyoming Constitution, statute or ordinance, such as a planning commission. It also applies to subcommittees formed by the governing body if the subcommittee includes a majority of the governing body.



WHICH GOVERNMENT MEETINGS ARE OPEN TO THE PUBLIC?

Wyo. Stat. 16-4-403 states as follows:

“All meetings of the governing body of an agency are public meetings, open to the public at all times, except as otherwise provided. No action of a governing body of an agency shall be taken except during a public meeting following notice of the meeting in accordance with this act. Action taken at a meeting not in conformity with this act is null and void and not merely voidable.”

Meetings may include not only formal meetings but also informal conferences or sessions of members of the governing body for the discussion of public business whether a decision is made or not when a quorum of the governing body is present. Some governing bodies erroneously assume that as long as no action is taken, there is no lawful meeting. For example, governing bodies hold work sessions, presentations or retreats where no formal action is intended to be taken. Under the WOML, such gatherings **do** constitute meetings as defined by law. As such, they must be preceded by any required

public notice and they must be treated the same as any other special meeting.

Meetings may also include the gathering of the members of the governing body who are in communication with each other by means of a telephone conference call or on-line internet discussion. Such meetings, if pre-arranged, would constitute a meeting if a quorum is “present” on the conference call or on-line. Such meetings must be preceded by any required public notice. All members of the public wishing to hear or see the conversation must be permitted access as is required for any special or regular meeting.

Many people have the misunderstanding that any time a quorum of the governing body happens to be in the same place and someone mentions a subject related to the municipality, this constitutes an illegal meeting. This is not the case. When a quorum of the governing body happens to show up at the same wedding, restaurant, party, etc., and visit with one another, this does not constitute a meeting unless it was called by **proper authority** and **for**

*When a quorum of the governing body happens to show up at the same wedding, restaurant, party, etc., and visit with one another, this does not constitute a meeting unless it was called by **proper authority** and **for proper purpose**.*

proper purpose. **Proper authority** would normally be the mayor or upon the request of two or more members of the governing body for the **purpose** of discussing, deliberating, presenting, informing or acting on public business.

It is not necessarily illegal for a quorum of the governing body to ride in the same vehicle to a convention or some other function without giving proper public notice of a “special meeting.” Such a gathering or incident is not a “meeting” as it was not called by proper authority, nor was the purpose of riding together in the vehicle to discuss, deliberate, present information or take action.

On the other hand, if the mayor were to request a quorum of the council members to ride in a vehicle so they could discuss some specific item of city business, this would constitute a meeting and would not be allowable. Because such meetings are required to

be open to the public, meetings in areas that cannot accommodate members of the public should not occur.

HOW IS “MEETING” DEFINED?

The WOML defines meeting as follows:

“An assembly of at least a quorum of the governing body of an agency which has been called by proper authority of the agency for the purpose of discussion, deliberation, presentation of information or taking action regarding public business.” (Wyo. Stat. 16-4-402(a)(iii))

WHAT CONSTITUTES “ACTION”?

Action means the transaction of official business of the governing body, including a collective decision of a governing body, a collective commitment or promise to make a positive or negative decision, or an actual vote by the governing body upon a motion, resolution, rule, order or ordinance. No action shall be taken by a governing body except during a public meeting, following notice of the meeting in accordance with the WOML.

WHAT ARE THE RIGHTS OF THE PUBLIC AT A PUBLIC MEETING?

“A member of the public is not required as a condition of attendance at any meeting to register his name, to supply information, to complete a questionnaire, or fulfill any other condition precedent to his attendance. A person seeking recognition at the meeting may be required to give his name and affiliation.” (Wyo. Stat. 16-4-403).

“If any public meeting is willfully disrupted so as to render the orderly conduct of the meeting unfeasible, the governing body may order the removal of the person or persons responsible from the meeting room and continue in session. It may also recess the meeting and reconvene at another location. Only matters appearing on the agenda may be acted upon in a meeting recessed to another location..... Duly accredited members of the press or other news media except those who participate in disorderly conduct at a meeting shall be allowed to attend any meeting permitted by this section.” (Wyo. Stat. 16-6-4 through 16-6-6).

NOTICE REQUIREMENTS

Prior notice of all meetings must be given as provided in the WOML. The act requires that all municipalities develop their own rules and regulations regarding regular meetings, or make announcements regarding special meetings.

- Wyoming statute requires the governing body to hold regular public meetings. The date, time and place of the regularly scheduled City or Town Council meetings are to be adopted by ordinance, resolution, by-laws or rules.
- Any meeting that is not a regularly scheduled meeting is a special meeting. Special meetings may be called by the presiding officer of the governing body by giving notice of the meeting to each member of the governing body and to each newspaper of general circulation, radio or television station requesting the notice. The notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at special meeting. Notice of a special

Wyoming statute requires the governing body to hold regular public meetings. The date, time and place of the regularly scheduled City or Town Council meetings are to be adopted by ordinance, resolution, by-laws or rules.

meeting is not required to be **published** in any newspaper; however, it must be provided to any newspaper of general circulation, radio or television stations **requesting the notice.**

- The WOML does not specify a minimum time in advance of a special meeting in which notice must be provided. However, because there is a special provision for emergency meetings, the law implies that special meetings would provide more notice than an emergency meeting and at a minimum, notice of special meetings should be given at least 24 hours prior to the special meeting.
- Public bodies may recess meetings to a later time so long as they provide notice during the original meeting.
- Emergency meetings on matters of serious immediate concern require all reasonable efforts to be made to provide public notice. Further, all actions taken

at an emergency meeting are temporary and must be ratified at a public meeting within forty-eight hours of the emergency meeting.

- Day-to-day administrative activity does not require notice.

EXECUTIVE SESSIONS

Executive sessions not open to the public may be called for the following purposes:

- Meetings with the municipal attorney or law enforcement officials to consider matters posing a threat to the security of public or private property, or a threat to the public's right of access.

Consultations with legal counsel except as it relates to items covered under these statutory exceptions cannot be held in closed sessions.

- Meetings to consider appointment, employment, and dismissal of employees or to hear complaints brought against public employees (unless the person requests a public hearing). Witnesses at either a public or private hearing can be excluded during the examination of all other witnesses. Following the hearing, the governing body may deliberate on



its decision in executive session.

- Meetings on matters concerning pending or proposed litigation in which the governing body is or may be a party.
- Meetings on matters relating to national security.
- Meetings of a licensing agency while preparing, administering or grading examinations.
- Meetings to consider the selection of a site or the purchase of real estate when the publicity regarding the consideration would cause the likelihood of an increase in price;
- Meetings to consider the acceptance of donations, gifts and bequests the donor has requested be kept confidential.
- Meetings to discuss information classified as confidential by law.
- Meetings to consider the acceptance or tender of offers regarding wages,

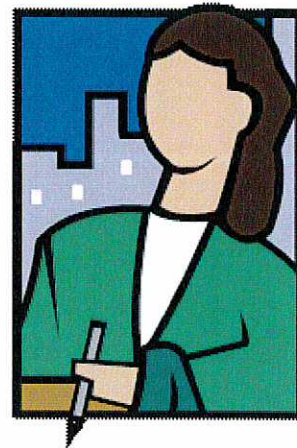
salaries, benefits and terms of employment during such negotiations. Collective bargaining negotiations should be conducted in open public meetings. The sessions at which offers are considered or formulated may be closed.

An executive session may be held only pursuant to a motion that is seconded and carried by a majority vote of the council members in attendance when the motion is made (Wyo. Stat. 15-1-105). The statutory reason for going into executive session should be stated in the motion.

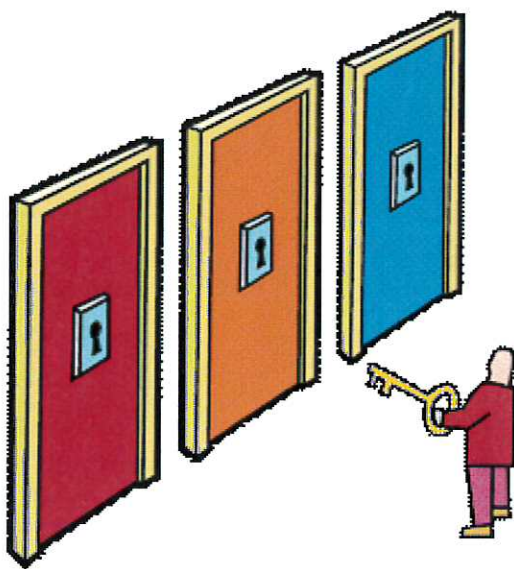
By law no action of the governing body can be taken except during a public meeting. Therefore action cannot be taken during an executive session. Minutes of the executive session are required to be taken. Minutes of the executive session should cite the statutory reasons for which an executive session was called. Detailed minutes of discussions held in executive sessions are not necessary.

MEETING MINUTES

The act requires all governing bodies to record (but not necessarily to publish) minutes of all meetings, including those where no action is taken. Minutes reflect all official acts. If an action is taken, the minutes are to be published. The minutes are public records. There is no requirement for recording discussions and commentary among the council members with regard to the various agenda items. While all official acts must be recorded, how much additional discussion is to be included in governing body minutes is left to the discretion of the governing body.

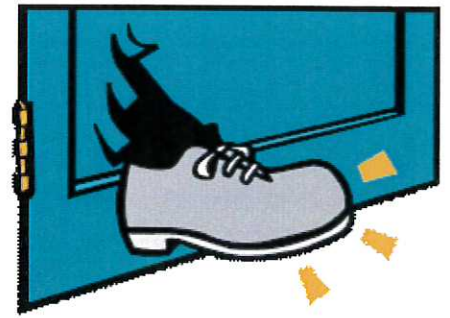


Minutes are required to be maintained of all executive sessions. Except for those parts of minutes of an executive session reflecting a member's objection to the executive session as being in violation of the WOML, minutes and proceedings of executive sessions shall be confidential and produced only in response to a valid court order (Wyo. Stat. 16-4-405(b)). Minutes of executive sessions should be maintained in a secure location, such as a locked file cabinet, with only very limited and secure access. At least one member of the governing body as well as the clerk or municipal attorney should be able to access the executive session minutes.



VIOLATIONS

Violations of the WOML can have very serious consequences both for the municipality and for elected officials. All actions taken during a meeting in violation of the Act are considered null and void. Contracts, employment decisions and budget approvals can be set aside and deemed never to have happened when the governing body fails to comply with the WOML.



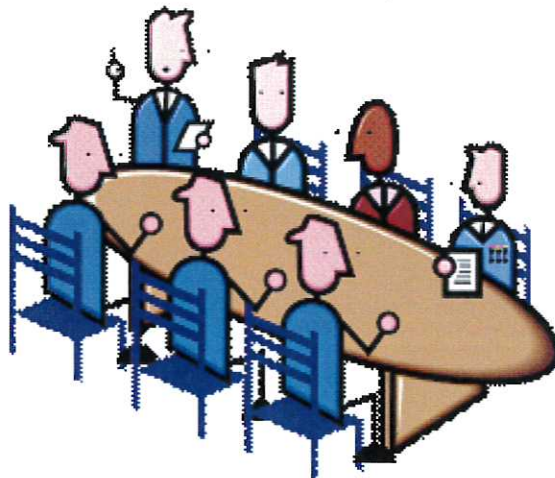
Any member of the governing body who attends or remains at a meeting where an action is taken knowing that the action is in violation of the WOML shall be guilty of a misdemeanor unless minutes were taken during the meeting and the parts recording the member's objections are made public; or, at the next public meeting, the member objects to the meeting where the violations occurred and asks that the objection be recorded in the minutes. Public officers found in violation of the act are guilty of a misdemeanor and can be assessed fines of up to \$750.

Other statutes include criminal penalties that may apply to open meetings violations. Disclosure of information acquired in executive session which is not intended for public disclosure is a violation of the Ethics and Disclosure Act (Wyo. Stat. 9-13-105(c)). For actions prohibited by both the WOML and Wyo. Stat. Title 6 – Crimes and Offenses, the provisions of Title 6 apply.



IN CONCLUSION

Compliance with the Open Meetings Law is a serious matter. Regardless of any penalties, government is most effective and public confidence is the greatest when the public business is conducted in public. Beyond the few exceptions provided in the Wyoming Open Meetings Law, public meetings are to be “open to the public at all times.”



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