

Nevada's Open Meeting Law

*Making Public Bodies Transparent
Since 1960!*

Greg Ott begins Power Point Presentation.

What is it?

- The Open Meeting Law “OML” is a shorthand name for chapter 241 of the Nevada Revised Statutes which place certain requirements on Public Bodies.

Greg Ott explains slide.

Why is it Necessary?

- NRS 241.010 (1) “all public bodies exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.”

Greg Ott explains the slide.

What is Covered?

- NRS 241.020(1) Except as otherwise provided by specific statute, **all meetings of public bodies** must be open and public, and all persons must be permitted to attend any meeting of these public bodies.

Greg Ott explains slide.

Public Body?

- See also NRS 241.015(4):
 - A government body
 - 2 or more people,
 - supported by tax dollars
 - make collective decisions or recommendations
- AG's Manual states: "...to the extent that a group is appointed by a public body and is given the task of making decisions for or recommendations to the public body, the group would be governed by the Open Meeting Law."
- **This includes the Early Childhood Advisory Council (432A.076)**

Greg Ott explains slide.

What about a Sub-committee?

- If a sub-committee **recommendation to a parent body** is more than **mere fact-finding** because the sub-committee has to choose or accept options, or decide to accept certain facts while rejecting others, or if it has to make any type of choice in order to create a recommendation, then it has participated in the decision-making process and is subject to the OML. (unless specifically exempted by statute.)
- OML Manual: section 3.04

- A question is asked , “Is it is a fluid number of members to establish a quorum, if another member is invited to a subcommittee .”
- Greg explains that a subcommittee has to be formed by a council. The size can only be changed by the council. If there are 5 council members on the subcommittee and 2 more show up it then becomes a full council meeting.
- A question is asked on if a member of the committee is asked to testify on the subcommittee is it a violation of open meeting laws.
- Greg explains that if three members invite two other members to testify, while the other two are there they cannot take place in any votes. Only the votes of the subcommittee counts. The full council can then vote on it when the subcommittee brings it to their attention at the next meeting.

Meeting?

- NRS 241.015 (3): “The gathering of members of a public body at which a quorum is present, whether in person or by means of electronic communication, to deliberate toward a decision or to take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.”
- Quorum + (Deliberation or Action)= Meeting

Greg Ott explains this slide.

Why is the OML Important?

- NRS 241.036 Action taken in violation of chapter void.
- NRS 241.040 Criminal and civil penalties;
- Attorney General has subpoena authority to investigate from NRS 241.039.

Greg Ott explains this slide.

How to avoid Violation

- **Enforcement against a member** of a public body based on “participation” may only occur when the member makes a commitment, promise, or casts an affirmative vote to take action on a matter under the public body’s jurisdiction or control **when the member knew** his/her commitment, promise, or vote was taken in violation of the OML.

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- A council member brings forward the point of how important conflict of interest is in potential votes since most of the votes of this council affect an organization that a council member may be a part of.
- Greg Ott stated that any time a board member is vested in a vote, if they fail to reclude themselves then it can taint that vote. The board members need to disclose if there is an interest in a vote. It needs to also be noted on the minutes.

What Does it Require?

- A lot of things, but remember the spirit:
- NRS 241.010 (1) “all public bodies exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.”
- Generally several components:
 - Agendas
 - Non-Meeting Conduct
 - Meetings
 - Public Access

Greg Ott explains this slide.

Agendas 101

- NRS 241.020(2)(d)(1): “A **clear and complete** statement of the topics scheduled to be considered during the meeting.”
- Agenda topics must be specific to alert the public to topics that will be discussed.
- Related matters to an agenda topic may not be discussed or the public body may have strayed from the agenda.
- Items on which action may be taken must clearly denote that action may be taken. NRS 241.020(2)(d)(2)

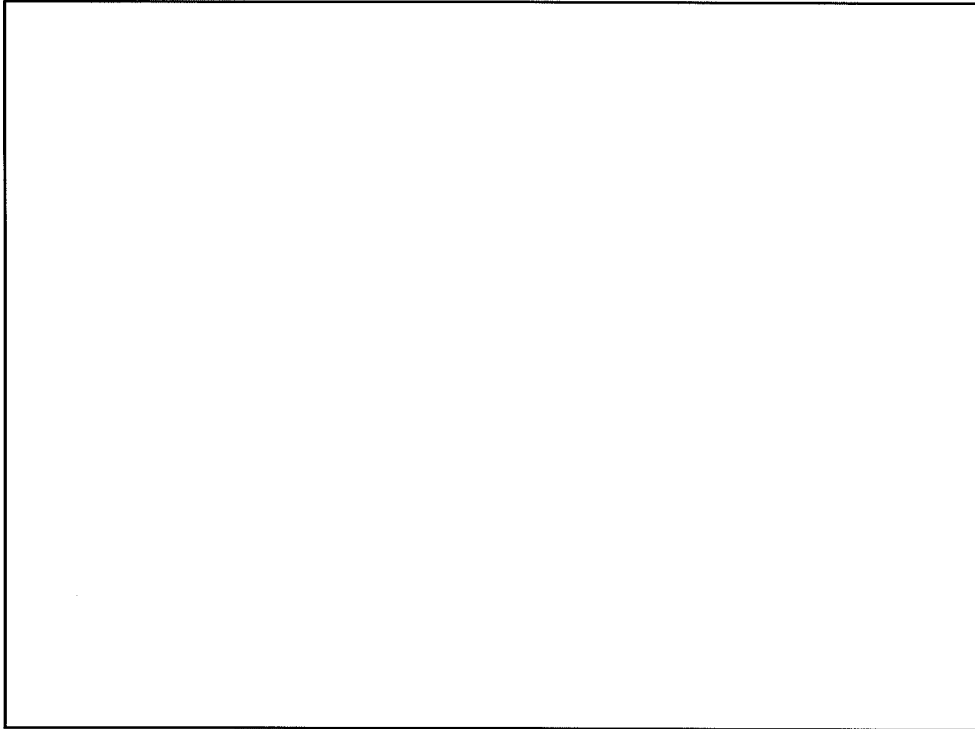
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- A council member asks if they can discuss something not on the agenda as long as it is not put to vote.
- Greg Ott stated that you cannot. This makes you think long term about what you want discussed in a meeting.
- A council member asks where should agendas be posted and do they have to be available at the sites the day of the meeting
- Greg stated that they have to be posted at Public libraries, the councils website, as well as the NDE offices.

Non-Meetings 101

- OML does not prohibit every private discussion of a public issue by members of public body or even forbid lobbying for votes, but;
- ...a quorum must not be involved.
- But 2 + 2 = 4: NRS 241.015(2)(a)(2)(II) "The members of the public body attending one or more of the gatherings collectively constitute a quorum."
- Texting counts too: NRS 241.015(2)(a)(2)(I): ". . . whether in person or by means of electronic communication"

- A council member asks if you send an informational email to the council members and it does not include council content is that breaking open meeting law?
- Greg Ott stated that it does not prohibit every private discussion, but the discussion cannot include a quorum.
- Two council members ask if delivery of information is ok and if there is an event and you invite council members does that constitute a quorum
- Greg Ott stated that if you have a quorum and you are taking deliberate action then it is bad. Information emails are probably not a violation as long as it is not sent via mass email. You have to BBC everyone so that discussion cannot ensue.
- A council member asks if there is a majority of council members at a keynote during a conference does that constitute a violation.
- Greg Ott stated that as long as you attend but do not discuss or deliberate then it does not break open meeting law.
- A council member asks if there are 4 members in one room, 2 in another, and 3 in another room can they talk.
- Greg Ott stated that as long as it is below quorum it is ok. Also do not take the discussion out of the small group of each individual room.
- The public asks if it is a related issue but you make it clear that you are not speaking as a council is it ok.
- Greg Ott stated that you are only in jeopardy if there is a quorum. If it is something the council can take issue on then keep the amount of council members there lower.
- Continued on next page



- The public asks if it is ok to talk during a conference
- Greg Ott stated to avoid deliberation
- A council member stated that they are confused on “Discussion ‘vs’ Deliberation”
- Greg Ott stated that anytime two or more people exchange thoughts or information in constitutes deliberation
- A council member addresses the fact that there are a lot of local councils and asks if they have to follow open meeting law.
- Greg Ott stated that if they are not receiving funds then they are not a public body
- A council member asks if they use some of the ECAC by-laws as their own do they have to follow open meeting law.
- Greg Ott stated that if they are making recommendations to the council then they have to follow open meeting law. Texting also counts for this
- A council member asks if she has information that she would like the general public to know and she sends it to a member of the public who then sends it to a group of people including the ECAC members does that violate open meeting law
- Greg Ott stated that it is unlikely that this would violate open meeting law.

Meetings 101

- Follow the Agenda
- NRS 241.020 (3) Comments by the general public must be taken:
 - (I) At the beginning of the meeting before any items on which action may be taken are heard by the public body and again before the adjournment of the meeting; **or**
 - (II) After each item on the agenda on which action may be taken is discussed by the public body, but before the public body takes action on the item.
- This is the minimum, can allow additional comment

- A council member asks if she shares information between two bodies is it appropriate to do so during public comment .
- Greg Ott stated that it is ok but from here forward it should be its own agenda.

Public Access 101

- NRS 241.020 (1) “[A]ll persons must be permitted to attend meeting.”
- Periods of public comment must be taken, but can be restricted
- All public comment restrictions must be on Agenda
 - Restrict public speakers to the subjects within its supervision, control, jurisdiction or advisory power;
 - Limit public comment if the “speech becomes irrelevant or repetitious.”
 - Apply reasonable time limitations (2 to 5 Minutes),
 - limit caustic personal attacks.
 - **But a public body can not limit public comment based disagreement with “viewpoint” of the speaker.**
- A person or persons who “willfully disrupts a meeting to the extent its orderly conduct has been made impractical” can be removed.

Greg Ott explains this slide

Remember. . .

OPENNESS IS THE NORM,
NOT THE EXCEPTION;

The OML is:

“...for the public benefit and should be liberally
construed and broadly interpreted to promote
openness in government.”

*Dewey v. Redevelopment Agency of City of Reno,
119 Nev. 87, 94 (2003)*

Greg Ott explains this slide.

I Still Don't Understand

- AG's Open Meeting Law Manual
(11th ed., June 2012)
- Statutory provisions
- Explanation of requirements
- Examples
- Compliance checklists
- Sample Forms: agenda, minutes and notice of meeting to consider a person's character, etc.
- **Available on the Attorney General's website at: [www.ag.state.nv.us/Open Meeting law](http://www.ag.state.nv.us/OpenMeetingLaw) (link)**

- A council member asks if they begin a meeting with a quorum but people have to leave and they lose quorum it is it ok for conversations to continue without voting
- Greg Ott stated that it is no longer a meeting because there is no longer a quorum. He advised the council to complete all voting and public comments completed before the end of the meeting
- A council member asks if minutes are still required after there is no quorum
- Greg Ott stated that it is not necessary, although if you wish to you can. Also audio and visual are no longer required

Phone a Friend?

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- A council member asks how another council would be able to schedule him
- Greg Ott stated to have that council member contact him
- Chairwoman Tammie asks if there are any other questions. There are not