Complying with Ohio’s Open Meetings Law

Cheryl F. Wolff
Spengler Nathanson P.L.L.
Toledo Metropolitan Area Council of Governments
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Three Trustees Walk Into a Tavern...
Did a Public Meeting Break Out?
A “public body” must conduct all deliberations on official business and take official action only in open meetings.
“Public Body”

Any decision-making body of a

- State agency, institution or authority
- County, township, municipal corporation, school district, or other political subdivision or local public institution

AND . . .
“Public Body”

- And any committee or subcommittee of one of those decision-making authorities
“Meeting”

- Pre-arranged discussion
- By majority of public body’s members
- Of the public body’s public business
Deliberating and Voting

- Members must be present in person
- No voting by phone or by proxy
- No secret ballots
Statutory Requirements

- Give notice of meetings
- Deliberate and vote in open session
- Prepare and maintain minutes, open for public inspection
Types of Meetings

- Regular meetings
  - Held at prescheduled intervals
- Special meetings
  - Any meeting not a regular meeting
  - Emergency meeting: situation requires immediate official action
Notice of Meetings

- Regular meetings
  - By rule, establish method that allows public to determine time, place of regular meetings and time, place, purpose of special meetings

- Special meetings
  - Notice at least 24 hours in advance
  - To news media that have requested notification

- Emergency meetings
  - Notice “immediately” of time, place, purpose
  - To news media that have requested notification
Executive Sessions

- Portion of meeting of public body from which public is excluded
- Only at regular or special meetings
- Only for topics specified in statute
- Public body may invite anyone it chooses to attend an executive session
- No official action while in executive session
Executive Sessions: Procedure

- Motion and second to enter executive session
- Motion must state specific permissible reason(s) for executive session
- Roll call vote by majority of quorum
- Public meetings must always begin and end in open session
Consideration of certain personnel actions: Appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official

Or investigation of charges or complaints against a public employee or regulated individual
Executive Sessions: More Reasons

- **Purchase of property** for public purposes or sale of property at competitive bidding.
- Conferences with public body’s attorney concerning disputes involving the public body that are subject of *pending or imminent court action*.
- Collective bargaining sessions, preparation, strategy.
Executive Sessions: More Reasons

- Details regarding security arrangements, emergency response protocols
- Certain public hospitals’ trade secrets
- Matters required to be kept confidential by federal law or regulations or state statutes
Executive Sessions: New Reason

- To consider confidential information related to marketing plans, business strategy, production techniques, trade secrets or personal financial statements of applicant for economic development assistance.

- Need determination by unanimous quorum, by roll call vote, that executive session is necessary to protect applicant’s interests or possible investment or expenditure of public funds in connection with economic development project.
Ohio Ethics law: Public officials are prohibited from disclosing, without authorization, information acquired in course of official duties that has been clearly designated to public official as confidential because of status of proceedings or circumstances under which information was received, and preserving its confidentiality is necessary to proper conduct of government business.
Penalties for Open Meetings Law Violations

- Injunction
- Fines
- Attorney fees
- Court costs
- Removal from office
- Action invalidated
Right to attend, not right to participate
But public expects, and many public bodies allow
Can establish some controls to help ensure orderly meetings
Public Body Can ...

- Limit subjects to be discussed at particular meeting
- Limit amount of time an individual can speak
- Limit number of speakers supporting or opposing issue
- Allow the public body to silence disruptive speakers
Public Body Cannot ...

- Selectively enforce time limit on speakers
- Limit speakers to one viewpoint
- Silence speaker because (s)he is criticizing the public body or one or more of its members
- Refuse to allow someone to speak just because (s)he is an employee
Accessibility

Title II of Americans with Disabilities Act prohibits exclusion of individuals with disabilities from participation in services, programs or activities of a public entity
Open meetings law “shall be liberally construed to require public officials to take official action and to conduct all deliberations upon official business only in open meetings unless the subject matter is specifically excepted by law.”
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