

OPEN MEETINGS ACT

February 9, 2019

AASB Fly-In

LAEL HARRISON



FAULKNER BANFIELD

A PROFESSIONAL CORPORATION

BASICS

- **“ALL MEETINGS OF A GOVERNMENTAL BODY OF A PUBLIC ENTITY OF THE STATE ARE OPEN TO THE PUBLIC EXCEPT AS OTHERWISE PROVIDED BY THIS SECTION OR ANOTHER PROVISION OF LAW.”**



BASICS

- “ALL **MEETINGS** OF A GOVERNMENTAL BODY OF A PUBLIC ENTITY OF THE STATE ARE OPEN TO THE PUBLIC EXCEPT AS OTHERWISE PROVIDED BY THIS SECTION OR ANOTHER PROVISION OF LAW.”



WHAT IS A MEETING?

- **BOARD MEETINGS**
 - Vs
- **ADVISORY COMMITTEE MEETINGS**



WHAT IS A MEETING?

- **BOARD MEETINGS**
 - Vs
- **ADVISORY COMMITTEE MEETINGS**



WHAT IS A MEETING?

- **BOARD MEETINGS**

- “MORE THAN THREE MEMBERS OR A MAJORITY OF THE MEMBERS, WHICHEVER IS LESS, ARE PRESENT, [AND] A MATTER UPON WHICH THE GOVERNMENTAL BODY IS EMPOWERED TO ACT IS CONSIDERED BY THE MEMBERS COLLECTIVELY”



WHAT IS A MEETING?

- **BOARD MEETINGS**

- **“MORE THAN THREE MEMBERS OR A MAJORITY OF THE MEMBERS, WHICHEVER IS LESS, ARE PRESENT, [AND] A MATTER UPON WHICH THE GOVERNMENTAL BODY IS EMPOWERED TO ACT IS CONSIDERED BY THE MEMBERS COLLECTIVELY”**



WHAT IS A MEETING?

- **BOARD MEETINGS**

- “MORE THAN THREE MEMBERS OR A MAJORITY OF THE MEMBERS, WHICHEVER IS LESS, **ARE PRESENT**, [AND] A MATTER UPON WHICH THE GOVERNMENTAL BODY IS EMPOWERED TO ACT IS CONSIDERED BY THE MEMBERS COLLECTIVELY”



WHAT IS A MEETING?

- **BOARD MEETINGS**

- “MORE THAN THREE MEMBERS OR A MAJORITY OF THE MEMBERS, WHICHEVER IS LESS, ARE PRESENT, [AND] **A MATTER UPON WHICH THE GOVERNMENTAL BODY IS EMPOWERED TO ACT IS CONSIDERED BY THE MEMBERS COLLECTIVELY**”



WHAT IS A MEETING?

- **BOARD MEETINGS**

- **STATUTORY EXCEPTIONS:**

- **HEARING DELIBERATIONS**
 - **STAFF MEETINGS**
 - **AASB MEETINGS AND THE LIKE: “ONLY IF NO ACTION IS TAKEN AND NO BUSINESS OF THE GOVERNMENTAL BODY IS CONDUCTED AT THE MEETINGS.”**



WHAT IS A MEETING?

- **BOARD MEETINGS**
 - Vs
- **ADVISORY COMMITTEE MEETINGS**



WHAT IS A MEETING?

- **ADVISORY COMMITTEE MEETINGS**

- “MORE THAN THREE MEMBERS OR A MAJORITY OF THE MEMBERS, WHICHEVER IS LESS, ARE PRESENT, [AND] THE GATHERING IS PREARRANGED FOR THE PURPOSE OF CONSIDERING A MATTER UPON WHICH THE GOVERNMENTAL BODY IS EMPOWERED TO ACT”



WHAT IS A MEETING?

- **ADVISORY COMMITTEE MEETINGS**

- **“MORE THAN THREE MEMBERS OR A MAJORITY OF THE MEMBERS, WHICHEVER IS LESS, ARE PRESENT, [AND] THE GATHERING IS PREARRANGED FOR THE PURPOSE OF CONSIDERING A MATTER UPON WHICH THE GOVERNMENTAL BODY IS EMPOWERED TO ACT”**



WHAT IS A MEETING?

- **ADVISORY COMMITTEE MEETINGS**

- “MORE THAN THREE MEMBERS OR A MAJORITY OF THE MEMBERS, WHICHEVER IS LESS, **ARE PRESENT**, [AND] THE GATHERING IS PREARRANGED FOR THE PURPOSE OF CONSIDERING A MATTER UPON WHICH THE GOVERNMENTAL BODY IS EMPOWERED TO ACT”



WHAT IS A MEETING?

- **ADVISORY COMMITTEE MEETINGS**

- “MORE THAN THREE MEMBERS OR A MAJORITY OF THE MEMBERS, WHICHEVER IS LESS, ARE PRESENT, [AND] **THE GATHERING IS PREARRANGED FOR THE PURPOSE OF CONSIDERING A MATTER UPON WHICH THE GOVERNMENTAL BODY IS EMPOWERED TO ACT**”



BASICS

- “ALL MEETINGS OF A GOVERNMENTAL BODY OF A PUBLIC ENTITY OF THE STATE ARE OPEN TO THE PUBLIC EXCEPT AS OTHERWISE PROVIDED BY THIS SECTION OR ANOTHER PROVISION OF LAW.”



WHAT IS “OPEN TO THE PUBLIC?”

- **REASONABLE LOCATION**
 - GEOGRAPHY
 - ACCESSIBILITY
 - OPTIONS



WHAT IS “OPEN TO THE PUBLIC?”

- **TELECONFERENCE**
 - OK FOR PUBLIC AND BOARD MEMBERS
 - GIVE NOTICE OF CALL-IN INFO
 - IF FROM SPECIFIC LOCATION, MAKE MATERIALS AVAILABLE THERE
 - ROLL CALL VOTE



BASICS

- **“REASONABLE PUBLIC NOTICE SHALL BE GIVEN FOR ALL MEETINGS REQUIRED TO BE OPEN UNDER THIS SECTION.”**



BASICS

- **“REASONABLE PUBLIC NOTICE SHALL BE GIVEN FOR ALL MEETINGS REQUIRED TO BE OPEN UNDER THIS SECTION.”**



WHAT IS “REASONABLE PUBLIC NOTICE”?

- **MUST INCLUDE:**
 - **DATE, TIME AND PLACE**
 - **ANY TELECONFERENCING INFO**
 - **TOPICS**



WHAT IS “REASONABLE PUBLIC NOTICE”?

- POST AT DISTRICT OFFICE
- “PRINT OR BROADCAST MEDIA”
 - SOCIAL MEDIA?
- REASONABLY IN ADVANCE
- CONSISTENCY



WHAT IS “REASONABLE PUBLIC NOTICE”?

- **EMERGENCY MEETINGS**
 - **GIVE WHATEVER NOTICE YOU CAN!**



EXECUTIVE SESSIONS

- SENSITIVE FINANCIAL ISSUES
- SENSITIVE REPUTATION ISSUES
- LEGALLY CONFIDENTIAL INFO
- LEGALLY CONFIDENTIAL DOCS



EXECUTIVE SESSIONS

- **SENSITIVE FINANCIAL ISSUES**
- **SENSITIVE REPUTATION ISSUES**
- **LEGALLY CONFIDENTIAL INFO**
- **LEGALLY CONFIDENTIAL DOCS**



EXECUTIVE SESSIONS

- SENSITIVE FINANCIAL ISSUES
- SENSITIVE REPUTATION ISSUES
- LEGALLY CONFIDENTIAL INFO
- LEGALLY CONFIDENTIAL DOCS



EXECUTIVE SESSIONS

- SENSITIVE FINANCIAL ISSUES
- SENSITIVE REPUTATION ISSUES
- LEGALLY CONFIDENTIAL INFO
- LEGALLY CONFIDENTIAL DOCS



EXECUTIVE SESSIONS

- SENSITIVE FINANCIAL ISSUES
- SENSITIVE REPUTATION ISSUES
- LEGALLY CONFIDENTIAL INFO
- LEGALLY CONFIDENTIAL DOCS



EXECUTIVE SESSIONS

- **LOGISTICS**
 - **CONVENE AS PUBLIC MEETING**
 - **MOVE TO ENTER EXEC SESSION**
 - **DO NOT DISCUSS OTHER TOPICS**
 - **TAKE NO ACTION**
 - **MOVE TO EXIT**
 - **VOTE**



PENALTIES

- CORRECTIVE ACTION
- 180 DAYS TO FILE LAWSUIT
 - BOARD VIOLATIONS ONLY
- COURT CAN VOID ACTION
 - CURE?
- ATTORNEYS' FEES?
- OTHER?



OTHER CONSIDERATIONS

- **BYLAWS**
- **POLICIES**
- **LOCAL ORDINANCES**



QUESTIONS?



SCENARIO 1

- **BOARD GOES ON SITE VISIT OF PROSPECTIVE NEW SCHOOL LOCATION**



SCENARIO 2

- **BOARD MEMBER CALLS: “I’M CALLING EVERYONE TO SEE WHAT THEY THINK ABOUT THE POTENTIAL NEW SCHOOL SITE”**



SCENARIO 2.5

- **BOARD MEMBER CALLS: “I’M CALLING EVERYONE TO SEE IF THEY WERE ABLE TO OPEN THE ATTACHMENT TO MEETING PACKET THAT WE GOT”**



SCENARIO 3

- **AT A PARTY YOU FIND YOURSELF IN A GROUP OF BOARD MEMBERS WHO ARE ALL TALKING ABOUT THE POTENTIAL NEW SCHOOL SITE**



SCENARIO 3.5

- **AT A PARTY YOU FIND YOURSELF IN A GROUP OF BOARD MEMBERS AND PUBLIC MEMBERS WHO ARE ALL TALKING ABOUT THE POTENTIAL NEW SCHOOL SITE**



SCENARIO 4

- **A BOARD MEMBER WRITES AN EMAIL TO ALL THE BOARD MEMBERS ABOUT THE PROPOSED NEW SCHOOL SITE**



SCENARIO 4.5

- **A MEMBER OF THE PUBLIC WRITES AN EMAIL TO ALL THE BOARD MEMBERS ABOUT THE PROPOSED NEW SCHOOL SITE**



SCENARIO 5

- **ONE BOARD MEMBER TWEETS “I *LUV* THE NEW SCHOOL SITE!!” THREE BOARD MEMBERS RE-TWEET.**



SCENARIO 5.5

- **DISTRICT FACEBOOK ADMIN POSTS A PICTURE OF THE POTENTIAL NEW SCHOOL SITE AND FOUR BOARD MEMBERS COMMENT.**



CONCLUSION

- **IN CLOSE CASES, PUBLIC ACCESS WINS!**



QUESTIONS?

LAEL HARRISON



FAULKNER BANFIELD
A PROFESSIONAL CORPORATION