OPEN MEETINGS ACT

February 9, 2019
AASB Fly-In

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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.”
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What Is a Meeting?

- Board Meetings
- Vs
- Advisory Committee Meetings
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• 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?

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  - Vs
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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

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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**

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Basics

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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
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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

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A Professional Corporation