



Nevada's Open Meeting Law – An Outline

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Introduction

Nevada Revised Statutes (NRS) Chapter 241, Meetings of State and Local Agencies, contains legislation governing how public meetings are conducted in Nevada.

Prepared as part of the curriculum used in a series of workshops designed for the Local Leaders Institute, this University of Nevada Cooperative Extension Fact Sheet summarizes the key sections of NRS Chapter 241 for locally elected and appointed officials, government executives, and citizens who are interested in the state's open meeting laws.

The Local Leaders Institute is a new University of Nevada Cooperative Extension program created in 2013 designed to teach the technical aspects of government, including the key provisions of the state's open meeting laws, to elected and appointed officials in Nevada. This fact sheet was prepared in response to the request of several elected and appointed officials in Nevada who attended the Local Leaders Institute in 2013.

The information presented in this fact sheet includes the changes made to NRS Chapter 241 by the 27th session of the Nevada State Legislature in 2013 that took effect on Jan. 1, 2014. Future sessions of the Nevada State Legislature may choose to revise NRS Chapter 241, and elected and appointed officials are encouraged to

consult their jurisdictions' legal counsel about any additional questions they may have regarding their responsibility to follow Nevada's open meeting law.

Responsible Administration

Nevada's open meeting laws exist to aid elected and appointed officials in conducting the people's business. NRS Chapter 241 was designed to ensure that the actions of elected and appointed officials, including city councilmembers, county commissioners, planning commissioners, neighborhood and community advisory board members, and other elected and appointed officials, conduct the people's business openly. Nevada's open meeting laws exist to ensure accountability and responsibility in the policies and laws made by Nevada's elected and appointed officials.

Cooper (2012), in his book *The Responsible Administrator: An Approach to Ethics for the Administrative Role*, argues that, "...together we craft for ourselves, through discourse and deliberation, conventions such as values, beliefs, and ethical norms to give meaning and order to our lives. Collective decision making in the governance process, including public administration, works best in a postmodern society when it emerges out of an inclusive conversation about how to create order and

meaning in our lives together. Hence, democratic governance provides mechanisms and arenas for this social process.” Nevada’s open meeting laws provide the legal and institutional structure by which Nevadans collectively craft our values, beliefs and ethical norms through the construction of public policy and law. This fact sheet provides a general outline of these open meeting laws for elected and appointed officials, government executives and the public in order to facilitate the transparent development of public policy and law that affects the everyday lives of Nevada’s citizens.

Definitions, NRS 241.015

NRS Chapter 241 Section 015 provides several key definitions that elected and appointed officials, government executives and the public should know. Among these key definitions are action, meeting public body and quorum.

“Action” means a decision, commitment or promise made by a majority of the members present at a meeting of a public body. In Nevada, a public body is made up of elected or appointed officials who have the authority to make a decision, commitment or promise.

“Meeting” means a gathering of members of a public body at which a quorum is present to deliberate on a matter over which the body has jurisdiction or supervisory authority. Even gatherings of members of a public body at which no quorum is present may constitute a public meeting if any deliberation or decision making by the members of the public body takes place. “Meeting” does not apply to social functions or meetings with legal counsel. For example, holiday parties hosted by a city government where the mayor and a majority of the elected city council are present would *not* constitute a public meeting *unless* the mayor and the elected

city councilmembers engaged in the deliberation or discussion of issues that could be considered part of the public agenda.

“Public Body” means any administrative, advisory, executive or legislative body (other than the Nevada Legislature) of the State or local government consisting of at least two persons that expends or disburses or is supported in whole or in part by tax revenue or makes recommendations to any entity that expends or disburses or is supported in whole or in part by tax revenue. Any committee or subcommittee created by resolution or ordinance by the previously defined public bodies is subject to the statutory requirements of Nevada’s open meeting laws. A city council or a county commission qualifies as a “public body” as do advisory committees, such as a neighborhood or community advisory board, a planning commission, a liquor license board or a historical preservation committee.

“Quorum” means a simple majority of the membership of a public body or other proportion established by law. Without the presence of a quorum, the elected or appointed officials are prohibited by law from conducting public business. Discussions regarding agenda items can be held, but no decision can be made.

Meetings, NRS 241.020

NRS Chapter 241 Section 020 outlines the prescribed process of how public meetings should be conducted and how public meetings should be generally advertised and solicited to the public. Except in rare occasions, failure to follow this process is a violation of state law. Nine specific guidelines are provided in NRS Chapter 241 Section 020, including:

(1) All meetings of all public bodies in Nevada are to be open to the public. In

some cases, certain exceptions can be made. If the elected or appointed board chooses to close a meeting of the elected or appointed board, the board may close the meeting only pursuant to a statute adopted by the board. The board must restrict its decision making to only those issues and items listed in the statute. For example, a city council may opt to hold a closed meeting to discuss a confidential personnel matter, such as the termination of a city manager for cause. Reasonable efforts to accommodate persons with disabilities must also be made for all public meetings.

(2) Written notice of any public meeting must be provided by 9 a.m. at least three working days prior to the meeting. The written notice must include:

- (a) The time, place and location of the meeting.
- (b) A list of the locations where the notice was posted.
- (c) The posted agenda must include:
 - (1) a clear and complete statement of topics to be considered;
 - (2) a notation of "for possible action" next to all items on which action may be taken;
 - (3) periods of time devoted to public comment, provided either at the beginning and end of the meeting *or* on each item before any action is taken, but must allow a period of time for the public to speak to issues not on the agenda.
- (d) If any portion of the meeting is closed, the name of the person being considered is listed on the notice and agenda.
- (e) If administrative action is possibly to be taken, the name of the person against whom administrative action may be taken must be listed on the notice and agenda.
- (f) Notification that (1) items may be taken out of order; (2) items may be combined; and (3) items may be

removed or delayed to a later time in the meeting.

- (g) Any reasonable restrictions on general public comments must be listed on the notice and agenda, such as a time limit of three minutes for each public comment. However, no public body may limit a person from expressing a particular viewpoint.

(3) The legal standard for a minimum public notice includes:

- (a) Posting the notice at the principal office or, if no office is used, the place where the meeting is to be held should be listed on the notice and agenda. The notice and agenda must be posted at three additional prominent places within the jurisdiction. Such places may include, but are not limited to, a library, post office or other public area within the jurisdiction.
- (b) The jurisdiction must post a copy of the notice and agenda on the State of Nevada's official website no later than 9 a.m. of the third working day prior to the meeting date.
- (c) The jurisdiction must provide a copy of the notice and agenda to any person who has requested the notice and agenda.
- (d) Electronic notification by email by the jurisdiction is permissible only if agreed to by the requestor.
- (4) The jurisdiction's website, if it is regularly maintained and updated, is to include a notice of all public meetings. However, use of the jurisdiction's website to post notices and agendas is *not* considered a substitute for the physical posting of the notice and agenda in prominent public locations.
- (5) If requested, the jurisdiction must provide a free copy of any agenda, ordinance or regulation, and any supporting

materials unless otherwise deemed confidential by the jurisdiction (for example, a copy of an employee's annual personnel evaluation) to any member of the public who has requested a copy.

(6) Supporting materials, such as a staff report or consultant's report, must be provided to any requester no later than the same material is being provided to the public body.

(7) For jurisdictions with a population of 45,000 or more residents, the elected or appointed board must post all supporting materials, such as a staff report or consultant's report, on its website within 24 hours of the meeting's recess if the material was provided to the elected or appointed officials at the time of the meeting.

(8) The jurisdiction may provide notification of any public meeting by electronic mail (email) if requested to do so by a member of the public.

(9) At times, elected and appointed officials may have to conduct an emergency meeting. "Emergency" means an unforeseen circumstance that requires immediate action and includes, but is not limited to, natural disasters caused by fire, flood, earthquake or other natural causes; or any impairment of the health and safety of the public due to an unforeseen occurrence.

Exceptions to Open Meeting Law, NRS 241.030

There are several key exceptions to Nevada's open meeting law. These exceptions include:

(1) A public body may hold a closed meeting in order to address the following issues:

- (a) Personnel issues including a discussion about the competence and character of an employee.
- (b) To prepare, administer or grade examinations (most associated with civil service positions or employment positions within the jurisdiction that require a certain technical proficiency, such as marksmanship for a police officer).
- (c) The consideration of appeals for examinations required by the jurisdiction.

(2) A person who is subject to a closed meeting may request that it be open. Such a request must be honored by the appropriate elected or appointed board.

(3) If a public body chooses to close a meeting, the public body must, by a motion of the elected or appointed board members, state the specific nature of the business to be conducted during the closed meeting. The public body must list the statutory authority pursuant to the matter to be considered during the closed meeting to which the public body has been authorized to close the meeting.

(4) NRS Chapter 241 Section 030 does not prevent the public body from removing any person during the meeting who willfully disrupts a meeting to the extent that the public body is unable to conduct the public's business. A public body may also choose to exclude any witness from a public or closed meeting during the examination of any other witness. NRS Chapter 241 Section 030 also does not require that any meeting be closed to the public and does not allow an elected or appointed board in Nevada to discuss the appointment of any person to public office or to the membership of a publicly appointed board during a closed meeting. For example, when determining membership of a planning commission, the local city council or county commission

must discuss the appointment during a public meeting.

Closed Meetings to Discuss a Member of a Public Body, NRS 241.031; and Closed Meetings for Personnel Matters or an Appeal of an Examination, NRS 241.033

Elected boards, such as a city council or county commission, will routinely have to address matters pertaining to the character, misconduct or incompetence of an elected or appointed official. NRS Chapter 241 Section 031 and NRS Chapter 241 Section 033 outline several important steps any public body, elected or appointed, must take when discussing the potential removal or sanction of a fellow elected or appointed official.

(1) The public body with jurisdiction must provide written notice of the meeting and proof of service of the notice.

(2) Notice of the meeting is to be delivered in person to the elected or appointed official whose conduct will be discussed and deliberated at least five working days before the hearing, or sent by certified mail at least 21 working days prior to the hearing to the last known address of the elected or appointed official whose conduct will be discussed. The letter should indicate that administrative action may be taken as a result of the closed meeting. The notice must include a list of topics anticipated to be considered and a statement indicating the person's right to attend the meeting.

(3) The Nevada Athletic Commission is exempted from this procedure.

(4) The person who is the subject of a closed meeting must be allowed to attend, have representation if desired, and submit evidence, present witnesses and provide testimony relating to the subject being considered.

(5) The chair of the public body may make a determination of which persons should and are permitted to attend the closed session and/or allow the public body to make that decision by majority vote.

(6) The person subject to a closed meeting is entitled to a copy of the official record of the meeting.

(7) The casual or indirect mention of other persons in a closed meeting does not subject those persons to the law's provisions regarding notice.

Administrative Action Taken Against a Person or Acquisition of Real Property by Eminent Domain, NRS 241.034

NRS Chapter 241 Section 034 outlines the written notification any elected or appointed board in Nevada must follow if the meeting is held to take administrative action against a person or if the jurisdiction is considering the taking of real property through the power of eminent domain. These requirements include:

(1) A notice to the person or owner of the real property being considered during the meeting is required. The notice may be delivered personally (within five working days prior to the meeting) or by certified mail (21 working days prior to the meeting).

(2) The notification in this section is *in addition to* the requirements listed in NRS Chapter 241 Section 020.

(3) The notification in this section is *not* required if proper notice was provided pursuant to NRS Chapter 241 Section 033 and was provided with the indication that administrative action may be taken.

(4) For the purposes of this section, real property is defined as any property owned only by the natural person or entity listed in the records of the county in which the real

property is located and to whom or which tax bills concerning the real property are sent.

Record of Public Meeting, NRS 241.035

In addition to proper notification, a public body must properly document the process by which a public body, elected or appointed, arrives at a decision and the final decision made by the public body. NRS Chapter 241 Section 035 outlines this process that all public bodies must take.

(1) The jurisdiction must keep written minutes that must contain the date, time and place of the meeting; the names of all members present and absent; the substance of all matters considered and, if requested, an indication of the vote; and the substance of remarks made by any member of the general public or a copy of any prepared remarks.

(2) The minutes of any public meeting are public record and must be made available for inspection within 30 working days of the meeting. The jurisdiction must retain a copy of the minutes for at least five years and then archive them appropriately as required by law.

(3) The minutes of a public meeting may be recorded in any manner by a member of the general public as long as it does not interfere with the meeting.

(4) The jurisdiction must make any audio or videotape or transcripts of the meeting (including closed meeting) available to the public. The jurisdiction must keep any audio or videotape recordings of any meeting for at least one year.

(5) The same requirements that apply to tapes or transcripts collected at a public meeting apply to any closed meetings.

(6) The jurisdiction and public body must make a good faith effort to comply with the requirements of this section.

Requirement of Vote and Action, NRS 241.0355

When elected or appointed to a public body, the public expects the elected or appointed official to conduct the public's business regardless of how controversial the item being considered might be. Although elected or appointed officials are expected to abstain from deliberation and decision making on items in which they have a conflict of interest, elected or appointed officials are not allowed to abstain from participation because they wish to avoid a controversial issue. NRS Chapter 241 Section 0355 states that abstention does not count as affirmative vote. Furthermore, if an elected or appointed official chooses to abstain, the official must seek the opinion of legal counsel stating that abstention is required and appropriate.

Enforcement by the Attorney General of the State of Nevada, NRS 241.039

The Attorney General of the State of Nevada is responsible for enforcing Nevada's open meeting laws and the sections of NRS Chapter 241. The Attorney General is required to investigate and prosecute violations of this statute. The Attorney General may issue subpoenas for all documents, records or materials related to any reported violation. Willful failure or refusal by any jurisdiction or elected and appointed official to comply with a subpoena issued by the Attorney General of the State of Nevada is considered a misdemeanor.

Agenda to Include Attorney General Finding, NRS 241.0395

If the Attorney General finds a willful failure to comply with Nevada's open meeting laws, the jurisdiction must include the opinion and findings of the Attorney General's Office on the next posted agenda of the elected or appointed board. Inclusion of the Attorney General's opinion and finding is not considered an admission of guilt.

Criminal and Civil Penalties, NRS 241.040

Willful failure to comply with Nevada's open meeting laws is considered a criminal act, and an individual elected or appointed official is subject to criminal and civil penalties as outlined in NRS Chapter 241 Section 040, including:

- (1) Any member of a public body, participating with knowledge of a violation, is guilty of a misdemeanor.
- (2) Wrongful exclusion of persons from a public meeting, open or closed, is a misdemeanor.
- (3) Any member attending a public meeting, open or closed, in violation of Nevada's open meeting laws is not automatically considered an accomplice to other members who willfully violated the sections of this statute.
- (4) Any member of a public body, participating with willful knowledge of a violation of this statute, is subject to a civil penalty of \$500.

Conclusion

Nevada's open meeting law, outlined in NRS Chapter 241, exists to ensure that the public's business is conducted in a transparent manner in which the public accountability and responsibility is maintained. The public meeting, be it a city council meeting, a county commissioners meeting, or a meeting of a local parks and recreation advisory board, is the institutional mechanism through which the public seeks to find agreement on the various public aspects of life. As members of the public, we often make decisions upon how public resources are allocated, which programs and projects are funded, what laws we should enact, and what we value as a society at our public meetings. According to Cooper (2012), "Agreement on these public aspects of life must be accomplished through broad participation in the governance debate if the institutions created are to have legitimacy through intersubjective reliability." Nevada's open meeting laws, outlined in NRS Chapter 241, exist to provide this legitimacy and reliability.

References

Cooper, T. L. 2012. *The Responsible Administrator: An Approach to Ethics for the Administrative Role*. Sixth Edition. San Francisco, CA: John Wiley & Sons, Inc.

State of Nevada. 2013. *Nevada Revised Statutes Chapter 241 – Meetings of State and Local Agencies*.

<http://www.leg.state.nv.us/NRS/NRS-241.html#NRS241Sec030>.

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