

OPEN MEETINGS LAW BASICS

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OVERVIEW

- What constitutes a meeting?
- What is required under the open meetings law?
- When is it permissible to convene in closed session?



OPEN MEETINGS LAW

- What is a “meeting” under the Open Meetings Law?



DEFINITION OF MEETING – WIS. STATS. S. 19.82(2)

- “Meeting” is defined as:
 - The convening of members of a governmental body for the purpose of exercising the responsibilities, authority, power or duties delegated to or vested in the body.

DEFINITION OF MEETING – WIS. STATS. S. 19.82(2)

- If one-half or more of the members of a governmental body are present, the meeting is rebuttably presumed to be for the purposes of exercising the responsibilities, authority, power or duties delegated to or vested in the body.
- “Meeting” does not include any social or chance gathering or conference which is not intended to avoid the open meeting requirements.

SHOWERS TEST

- Two-part test for determining when the statutory definition of a meeting applies:
 - Governmental body meets with the purpose of engaging in governmental business; and
 - Number of members present is sufficient to determine the governmental body's course of action.

SHOWERS TEST

- Governmental business refers to any formal or informal action, including discussion, decision, or information gathering on matters within the governmental body's realm or authority.
 - Includes when its members gather to simply hear information on a matter within the body's realm of authority.

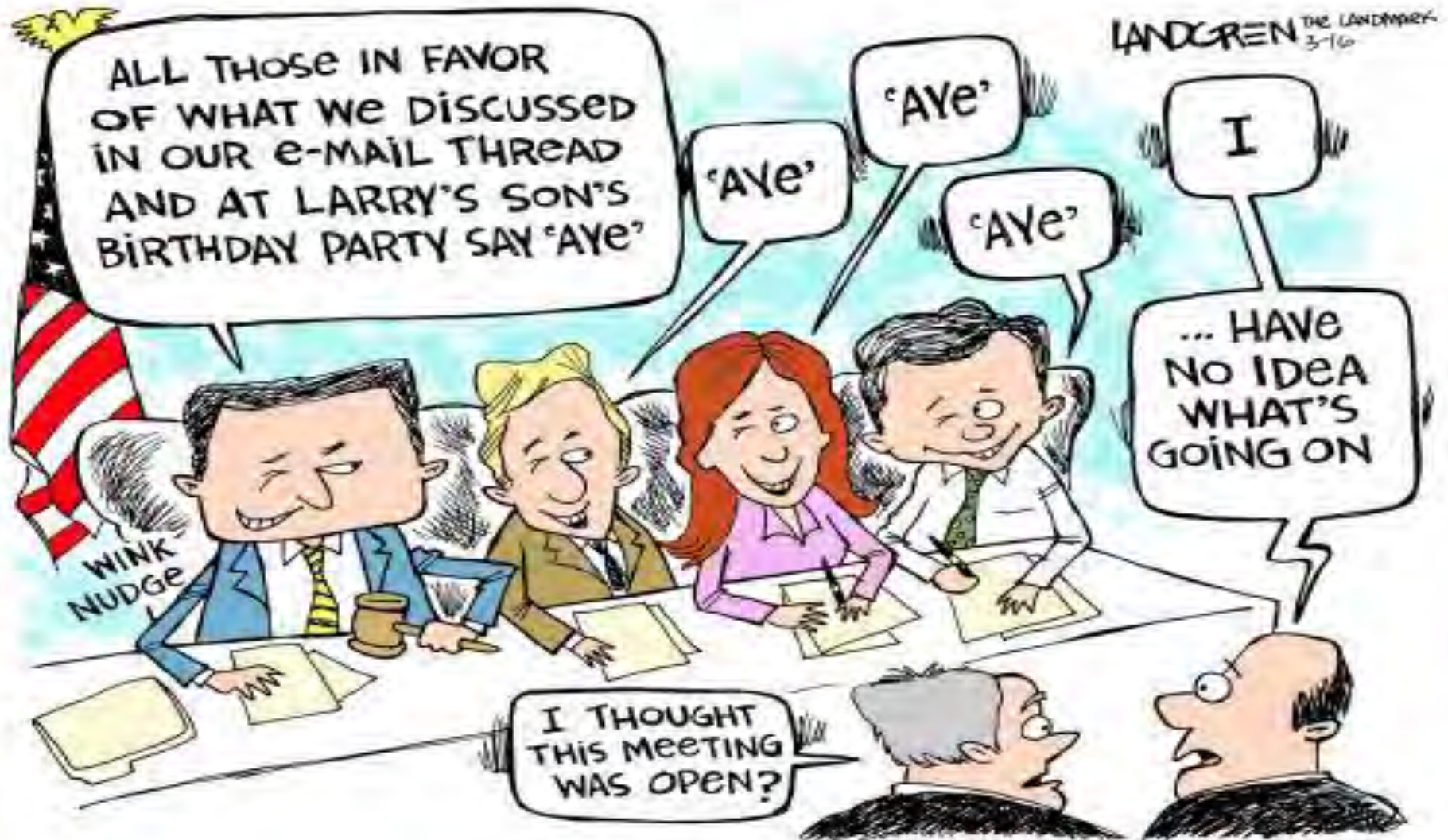
SHOWERS TEST

- Numbers Requirement.
 - Generally one-half of the members of the body.
 - If fewer members are needed to block a proposal, then a smaller number could apply (“negative quorum”).

CONVENING OF MEMBERS

- “Convening of Members” is not limited to situations in which members of a governmental body are simultaneously gathered in the same location.
 - Extent to which members are able to effectively communicate with each other and exercise authority vested in the body.
 - Extent to which communications resemble a face-to-face exchange.

CONVENING OF MEMBERS



WHAT IS REQUIRED UNDER THE OPEN MEETINGS LAW?

- Two basic requirements of open meetings law:
 - Advance public notice of each meeting; and
 - Conduct all business in open session, unless an exemption applies.



NOTICE REQUIREMENTS - WIS. STATS. S. 19.84



- The chief presiding officer of a governmental body (or designee) must give notice of each meeting to:
 - The public;
 - Any members of the news media who have submitted a written request for notice; and
 - The official newspaper designated pursuant to state statute (or a news medium likely to give notice in the area).

NOTICE REQUIREMENTS - WIS. STATS. S. 19.84

- Notice must include:
 - Time.
 - Must be given at least 24 hours in advance of the meeting unless “for good cause” such notice is “impossible or impractical.” – Wis. Stats. s. 19.84(3)
 - Date.
 - Place.
 - Subject matter of the meeting, including matters intended for consideration in any contemplated closed session.

BUSWELL V. TOMAH AREA SCHOOL DISTRICT

- Subject Matter
 - Based on information available at the time the notice is provided.
 - Reasonableness standard regarding specificity.
 - Rule of thumb: Would a person interested in a specific subject be aware upon reading the notice that the subject might be discussed ?
 - Case by case analysis
 - Burden of providing more detailed notice
 - Subject of particular importance
 - Non-routine subject

NOTICE REQUIREMENTS - WIS. STATS. S. 19.84

- Subject Matter
 - Not sufficient
 - “Old business,”
 - “New business”
 - “Other matters authorized by law”
 - Referring to an earlier meeting without identifying any particular subject

NOTICE REQUIREMENTS - WIS. STATS. S. 19.84

- Closed Sessions
 - If closed session is contemplated, the notice must contain the subject matter to be considered in closed session - Wis. Stats. s. 19.84(2).
 - Notice must contain enough information for the public to discern whether the subject matter is authorized for closed session under s. 19.85(1).
 - Notice of closed sessions must contain specific nature of the business as well as the exemption.

COMPLIANCE WITH NOTICE

- May discuss any aspect of any subject identified in the public notice and reasonably related issues, but may not address topics not reasonably related to the information in the notice.
- No requirement that agenda must be followed in the order listed on the meeting notice unless an agenda item has been noticed for a specific time.
- Not required to discuss every item contained in the public notice.

OPEN SESSION REQUIREMENTS

- “Open session” is defined as “a meeting which is held in a place reasonably accessible to members of the public and open to all citizens at all times.” – Wis. Stats. s. 19.82(3).

OPEN SESSION REQUIREMENTS

- Meetings must be held:
 - In places reasonably calculated to be large enough to accommodate all citizens who wish to attend the meetings – case by case basis.
 - In public places.
 - In locations near to the public they serve.
 - Generally, within the territory they serve.
 - Reasonably accessible to all citizens including those with disabilities.
 - Allow persons can enter, circulate and leave facility without assistance.

OPEN SESSION REQUIREMENTS

- Tape Recording and Videotaping
 - Allowed as long as it doesn't disrupt meeting.



- Citizen Participation
 - No requirement to allow public to speak or actively participate in meeting.
 - May set aside time for public comment.

OPEN SESSION REQUIREMENTS

- Voting and Meeting Minutes
 - No secret ballots except election of officers.
 - No voice vote or show of hands unless vote is unanimous.
 - No email ballots.
 - Must create and preserve a record of all motions and roll-call votes at meetings.
 - Can be done through written minutes.
 - Should be at the meeting or as soon thereafter as practicable.

CLOSED SESSION

- Procedure
 - Must pass motion by recorded majority vote to convene in closed sessions. – Wis. Stats. s. 19.85(1).
 - Must announce and record in open session the nature of business to be discussed and the statutory exemption authorizing the closed session.
 - Must only discuss business identified.

CLOSED SESSION

- Statutory Exemptions
 - Eleven exemptions to the open session requirement. – Wis. Stats. s. 19.85(1)
 - Includes:
 - Judicial or quasi-judicial hearings.
 - Employment and licensing matters.
 - Financial, medical, social or personal information .
 - Competitive or bargaining implications.
 - Conferring with legal counsel.

QUESTIONS

