



# Boards and Commissions Conference

## Planning and Zoning Commission Nuts & Bolts

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# Topics

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- Structure
- Roles and Responsibilities
- Oath and Ethics
- Conflicts of Interest
- Open Meeting Law
- Robert's Rules of Order

# Laws Governing Commissions

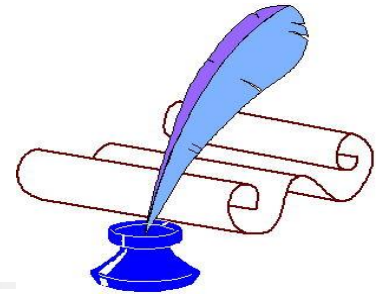
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- State Law
- Formation (Local Governing Body)
  - Ordinance, Resolution, Formal Action
- Bylaws – rules adopted by the specific body
  - Govern the internal affairs or actions
  - Advisory bodies should adopt Bylaws (& review)
  - Normally drafted by staff liaison with input from commission members



# What is in the Bylaws?

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- Procedures for holding meetings & voting
- Duties, powers, election process and terms of chair and vice-chair
- Subcommittee creation procedures
- Items not addressed by ordinance
- Bylaws can avoid and resolve difficult and recurring issues

# Formation of Subcommittees



- Purpose

- Usually focuses on specific function
- Expands public participation

- Membership Requirements

- Subcommittee Chair and Members appointed by Commission or Chair
- At least one member of Commission (serve as Chair) but not a quorum of Commission
- Should have set membership



# Roles and Responsibilities – Board Members

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- Advise and make recommendations
- Important to review agenda packets before meeting
  - Allows for informed decisions
  - Active participation in discussion
  - Identify and prepare questions
- Attendance Important
  - Can establish requirements (examples)
    - Miss 3 consecutive meetings
    - Miss 50% of meetings in a calendar year

# Board Member Role when Attending Other Meetings

- Official vs. Individual Capacity
  - Official Duties
  - Personal Opinions
- Things to Remember when acting in Individual Capacity
  - Best not to identify as board member
  - Not speaking on behalf of board
  - Vital to note when your position is in conflict with board decision





# Roles and Responsibilities – Staff Liaisons

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- Link between Commission & Elected body
- Facilitate and enhance Commission's preparation and effectiveness
- Ensure compliance with Open Meeting Law, parliamentary procedures, Bylaws
- Provide technical expertise





# Staff Responsibilities

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- Compile agendas and backup materials
- Ensure posting of agendas and results
  - Recording or statement of legal actions must be posted to Web within 3 days (bus)
  - Recording or minutes available within 3 days
- Scheduling and confirming quorum
- Meeting location and logistics
- Preparing and filing minutes



# Responsibilities - Board Members

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Oaths and  
Conflict of Interest



# Loyalty Oaths and Ethics Statements

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- Loyalty Oath
  - Required by State Law (A.R.S. 38-241)
  - Must be signed upon each appointment & reappointment to each board
- Ethics Statements
  - Required in some jurisdictions



# What is a Conflict of Interest?

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- A member has a competing professional or personal obligation or financial interest that would make it difficult to fulfill their duties fairly.
  - Situation where personal interest might influence public duty
- Can exist whether or not money is involved
- Can exist whether the conflict is actual or only perceived



# Determining if a Conflict Exists

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- State Conflict of Interest Law applies
  - A.R.S. 38-501-511
  - “Substantial interest” (not defined as remote)
- Responsibility of members to determine if a situation might affect them (or a relative)
- Review agendas in advance for conflicts
- Notify staff liaison (can consult with attorney)
- If in doubt - declare conflict!



# Stating a Conflict

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- Announce the conflict before discussion
- Refrain from discussing, deliberating or voting on the item
- Refrain from non-verbal participation!
- Conflict must be noted in the minutes
- If conflict, not counted for quorum
- Conflicts will arise – ok to declare



# Conflict of Interest Examples

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- NOTE: Each situation is unique – consult with staff before declaring a conflict (if possible)
- Work for a firm that has done business with City and anticipate future work
- Own property in close proximity to property subject to zoning (action could affect your property value)
- Close relative has application before Commission
- Other Examples?



# Penalties

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- Intentional or knowing violation –  
Class 6 Felony
- Reckless or negligent violation –  
Class 1 Misdemeanor
- Forfeiture of public office for either
- Actions voidable



# THE ARIZONA OPEN MEETING LAW

A.R.S. § 38-431





# Purpose

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- “Public business” is conducted in public
- Promotes openness in government
- Ensures the general public has access to government processes





# Applicability

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- All Public Bodies

- Any subcommittees formed by a Commission with less than a quorum if doing the business of a subcommittee

- All meetings

- Any gathering in person or through technology when a quorum is present
- When business is discussed, not just when action is taken
- Events – Notice quorum present, no business

# What is a Quorum?

The number of members required at a meeting for a meeting to be held



Meeting cannot start (or take place) unless a quorum is present



# Determining A Quorum

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“Half plus one” or a simple majority of

- the membership of the board, regardless of vacancies if a set membership was established
- the current membership appointed if membership is adjustable (not less than and no more than)



# Telephone Participation

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If there is a problem obtaining a quorum, the OML permits participation by Telephone Conference Call

- The public must be able to hear the person on the phone,
- The person on the phone must be able to hear everyone at the meeting, and
- Participation on the phone must be noted on the agenda.



# Telephone Participation

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- Only to be used as a last resort
  - OML states that the conference call option should be used only when there are no reasonable alternatives to presence at the meeting
- Consider the public perception of members participating by phone



# What if there is no quorum?

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- It is Not a meeting
- No business can be discussed and no action can be taken
- A Quorum can be lost during a meeting
  - Through member leaving (or lost phone connection)
  - A member declaring Conflict of Interest





# Limited Exception to Quorum

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- Presentation that would be difficult to reschedule may be heard with less than a quorum, provided that:
  - Members present may not discuss or act on the presentation
  - Staff will prepare and distribute a report on the presentation material
    - Consider distributing report on record at next meeting
  - Future discussion or action relates to the report, rather than the presentation



# Communication

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## At the Meeting

- Allowed:
  - Discussion of the merits of an item listed on the posted agenda
  - Action on any item listed for action on the posted agenda
- Prohibited:
  - Discussion or action on a topic not listed on the posted agenda
  - Discussion or action without a quorum present



# Communication

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## Outside the Meeting

### ■ Permitted

- Communication with staff for the purpose of clarification or to request an item on a future agenda (Should not include other Commission members)

### ■ Prohibited

- Communication among Commission members on current or potential action items (via phone, fax, e-mail, text, or *social media posts*)
- Splitting / Splintering Quorum (serial communication)
- Requesting staff to poll other members for their opinion on an issue



# Public Confidence is Important

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## Be Aware of Public Perception of Communications

- Residents don't know what you know
- Residents can "perceive" a general conversation among public body members as "having a discussion outside of an open meeting"
- You represent knowledgeable authority to the public – be cautious that your personal views are not seen as the viewpoint of the public body
- If in doubt about perception, don't do it

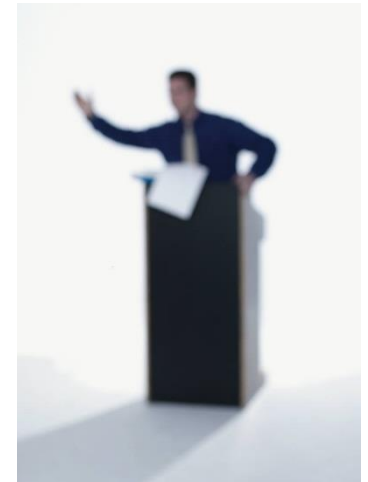
# Meeting Agendas

- Must be posted at least 24 hours in advance
- Must be specific
  - Public is entitled to know what will take place
  - Only listed items may be discussed
  - Only items listed for action may have an action taken



# Comment by the Public

- OML does not establish a right to attend & listen, not to speak on agenda items (usually permitted)
- Public Comment (optional)
  - May provide time for comments on non-agenda items
  - Commission cannot respond or discuss topic, but can direct staff to follow up or place on future agenda
  - May require speaker to fill out speaker card for the record
  - May impose reasonable time restrictions
- Consider creating speaker “Guidelines”



# Robert's Rules of Order

- Provide guidance and consistency for conduct of meetings





# Robert's Rules of Order

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- Robert's Rules of Order is the common standard for conducting meetings
- However . . . Robert's Rules provides that a government law, or established Bylaws or Rules of Proceedings take precedence over Robert's Rules





# Purpose

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Ensure -

- The business of a public body is transacted appropriately
- That “Debate and Decorum” is maintained
  - Debate is comment on a pending motion
  - Decorum is conduct during debate



# Debate and Decorum

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- Speakers are recognized by the Chair before speaking
- Comments are addressed to the Chair and/or Commission
- Members shall not debate the same motion more than twice in a meeting
- Questions or suggestions do not constitute debate



# Debate and Decorum

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- Debate shall be confined to the question before the assemblies
- Debate shall avoid personalities

*"It is not the man, but the measure, that is the subject of debate"*

# Methods of Voting

## Roll Call –

Individual names are called and each member states their vote

## Voice Vote –

Those in favor call out 'aye', those opposed call out 'nay'

Important that Chair announce the results of the vote

OML Does not permit secret ballots





# When A Motion Fails

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- If the majority votes against, or
- If the vote is a tie
  
- If Motion fails, Item not necessarily fail
  - A new motion can be entertained on the item
  - Item then fails if voted down or for lack of a motion

# Questions / Discussion

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