

Open and Closed Meetings: the Colorado Sunshine Law Experience

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Rolf Asphaug, RTD General Counsel

Rolf.Asphaug@RTD-Denver.com

303-299-2203

Colorado's Open Meetings Law

- RTD is a “local public body” (C.R.S. 24-6-402(1)(a))
- Open meetings law applies only for a discussion of public business – purely social gatherings are allowed (§402(c))
- Meetings of a quorum ***or*** three or more members of a local public body are open meetings
- If two members of a committee form a quorum and are present, the committee meeting is an open meeting (§402(2)(b))

Colorado's Open Meetings Law

- Public meetings must be noticed to the public - 24 hours in advance (§402(2)(e)). Public meetings are where public business is discussed.
- Notices should include a specific agenda (§402(2)(c))
- Minutes must be taken, recorded and made available to the public (§402(2)(d)(II))
- Minutes of meeting where there was an executive session must state the topic
- E-mail discussions (chatroom) are subject to Open Meetings requirements (§402(2)(d)(III))

Colorado's Open Meetings Law

- Executive (closed) sessions can held ***at meetings, on notice*** of the specific purpose, with ***vote of 2/3 of the quorum present*** for discussion of (§402(4)):
 - property acquisition, lease or disposal
 - conferences with an attorney regarding specific legal questions
 - matters required to be kept confidential under state or federal law (must cite law)
 - security arrangements and/or investigations including ongoing or possible prosecutions
 - contract negotiations/strategy discussions
 - personnel matters
 - consideration of documents protected by mandatory non-disclosure under law
- No formal action permitted in executive session

Colorado's Open Meetings Law

- Executive session recorded in same method as public meeting (402(2)(d.5)(II)(A))
- Record must reflect citation to the provision of law that authorized executive session
- If a court finds executive session improper, record shall be open to public inspection (§402(d.5)(II)(C))
- If there is a citizen enforcement suit and citizen prevails, court shall award costs and reasonable attorney fees (§402(9))

Some tips from sunny Colorado

- Hold executive sessions at end of meeting
- Avoid temptation to be cryptic
- Follow legal requirements to the letter
- Give public statement before going into session to explain procedure and limited basis for executive session
- Give your boards reminders early and often of limited matters proper for discussion
- Step in if your board risks going astray
- Recordings and attorney-client privileged communications

Questions?

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