



University of Wisconsin-Extension

# Common Sense Approach to Wisconsin Open Meetings Law

*2009 WI Lakes Convention*

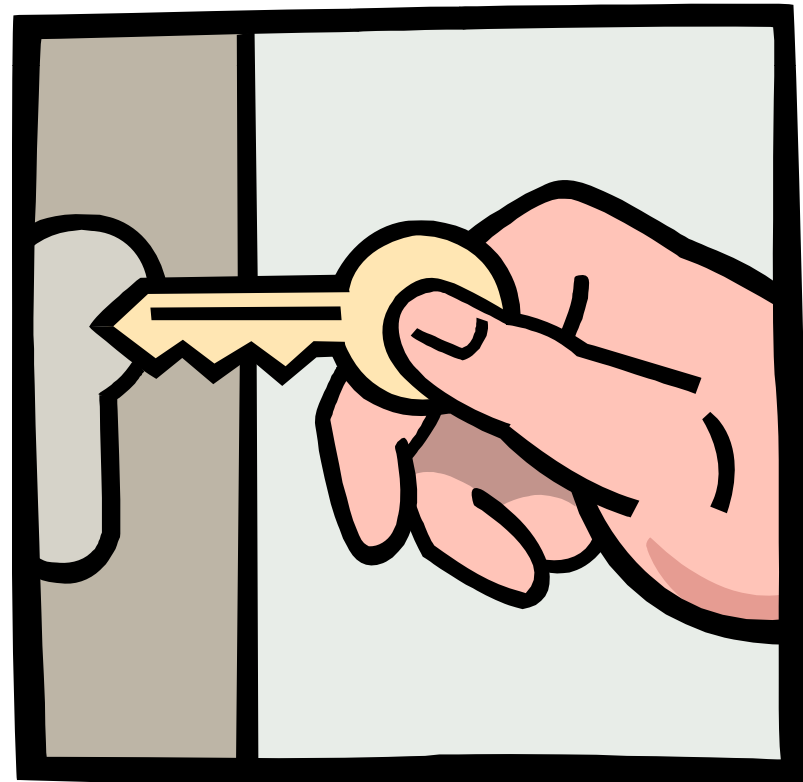
*Dan Hill*

*Local Government Center*



## Common Sense Approach

- Public Access
- Open Decision-Making:  
information gathering,  
discussion, and  
voting



# Intent of Open Meetings Law

The **Open Meetings Law** is meant to ensure:

- Advance public notice of meetings,
- meetings are open and accessible to the public, and
- closed sessions are limited.

## Bodies subject to the law

- local governing bodies of general and special purpose units of government,
- their committees, commissions and boards,
- special study and advisory committees, and other bodies or subunits created by a governmental body or an officer, and
- governmental and quasi-governmental corporations.
- (Body members covered by the law include citizen members.)

## Meeting defined

**Meeting** = a gathering of members of a governmental body for the purpose of exercising its responsibilities.

A meeting occurs when both a purpose test and a numbers test are met.



## The Two Tests

Numbers test = enough members of a body are present to determine the outcome of an action

Purpose test = discussion, information gathering or decision-making on a matter within the jurisdiction of the body.



## Numbers Test

- By statute, if one-half of the members of a body are present, there is a presumption that a meeting has occurred, unless the purpose test is not met.
- A lesser number of members may meet the numbers test if they can affect the outcome.



## Quiz Question

- Are these board members in violation of the open meetings law?



## Special Cases

Walking Quorum--A series of phone calls, e-mails or conversations to "line up votes" or conduct other business, known as a walking quorum, violates the law.

Phone conferences may constitute a meeting if the numbers and purpose tests are met.

## Public Notice Requirement

- **Every meeting shall be preceded by public notice.**
  - **Separate notice for each meeting.**
  - **Reasonably proximate to the time and date of the meeting.**
  - **Special exemption for subunit meetings held during or right after lawful meeting of parent body.**



## Public Notice: What?

- Time
- Date
- Place
- Subject Matter

## Public Notice: What? Subject Matter

- Apprise public of what will be addressed.
  - Only noticed agenda items may be discussed.
- Specific.
- Does not grant citizens right to participate.
- Public comment period may be included.





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*AGENDA FOR EXTENSION EDUCATION COMMITTEE MEETING*

*TUESDAY, MAY 14, 2002 - 7:00 P.M.*

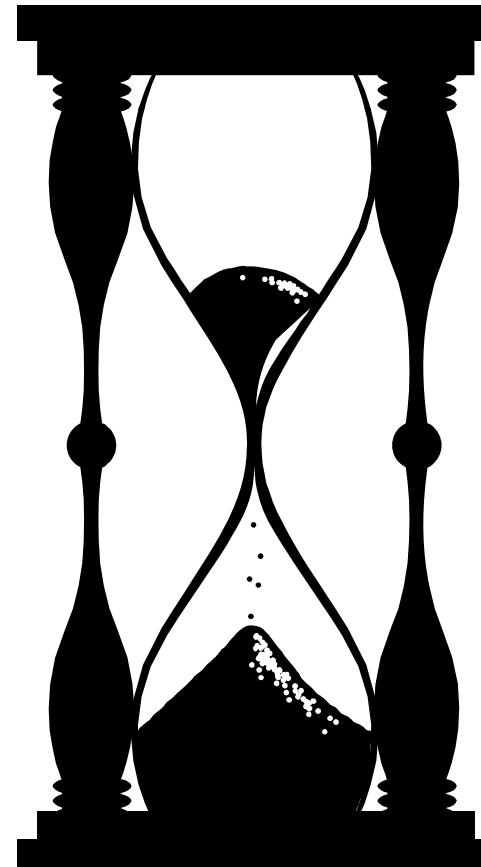
*AG CENTER CONFERENCE ROOM, DARLINGTON*

All Lafayette County Board Members are invited to this orientation meeting and their presence may constitute a quorum of the Lafayette County Board. The only purpose of the meeting is for new and continuing board members to learn about UW-Extension programs. No other county business will be discussed.

1. Call To Order
2. Certification Of Proper Notice Of Meeting
3. Orientation To UW-Extension For New And Continuing County Board Members
4. Review Of Vouchers
5. Next Meeting Date
6. Adjournment

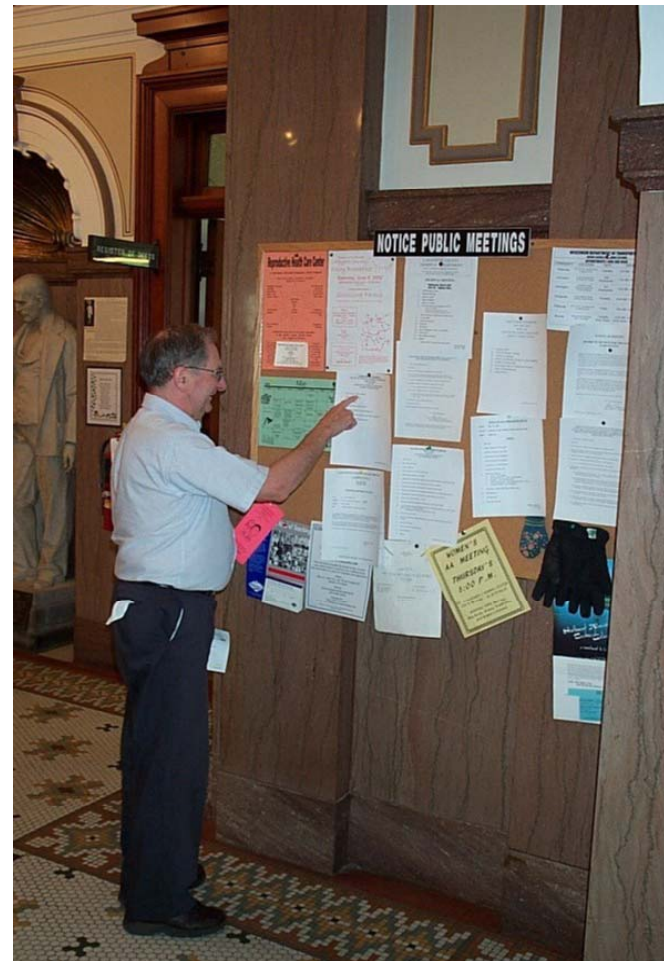
## Public Notice: When?

- At least 24 hours prior (2 hours prior for good cause).



## Public Notice: To Whom?

- Recommendation is to post in at least 3 locations.





## Public Notice: To Whom?

- Recommendation is to post in at least 3 locations.
- **Notify official newspaper, if there is one; if none, notify news medium likely to give notice.**

The logo for the Ozaukee-Washington Daily News, with "OZAUKEE - WASHINGTON" in red and "DAILY NEWS" in blue.The logo for News Graphic Times Press, with "NEWS GRAPHIC" and "TIMES PRESS" in blue, separated by a red horizontal line above and below.

## Public Notice: To Whom?

- Recommendation is to post in at least 3 locations.
- Notify official newspaper, if there is one; if none, notify news medium likely to give notice..
- **Must provide notice to any media requesting it.**

## Public Notice: By Whom?

- Chief presiding officer.
- Or designee, usually the clerk.
- Ultimate responsibility rests with the chief presiding officer.



## Public Access

- Reasonable access.
- Anticipate large crowds for controversial topics.
- Proximate to the public served.





## Permitted closed sessions

Closed sessions are limited to those authorized by statute, including...

- Deliberations concerning a judicial or quasi-judicial "case".
- Personnel matters including employee discipline and licensing.
- Deliberations on property acquisitions, investments, or for competitive or bargaining issues.

## Closed session procedures

- Convene in open session.
- Announce authority and purpose of proposed closed session.
- Close session by a majority vote, showing vote of each member.



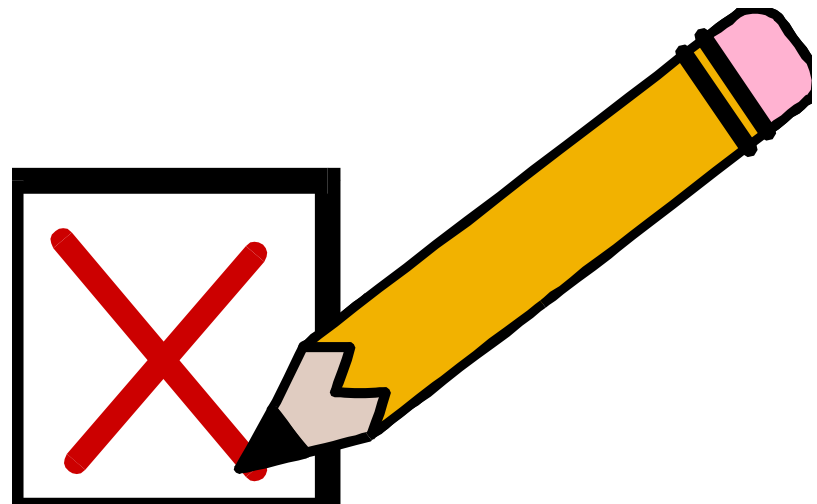
## Closed session procedures

- Objecting body members, personnel essential to closed discussion and members of parent body may remain.
- Limit discussion to announced items.
- Do not reconvene in open session unless it was included in the public notice.



## Votes and Ballots

- No secret ballots, except election of officers.
- Any member may request that a vote be taken so that the vote of each member is ascertained and recorded.





## Votes and Ballots

- Vote in open session unless the vote would compromise the need for the closed session.
- Record motions, seconds, and votes
- Preserve record and allow access per public records law.

Meeting minutes should document:

- proper notice,
- reasons for closed sessions, and
- motions, seconds, votes and procedural requirements.

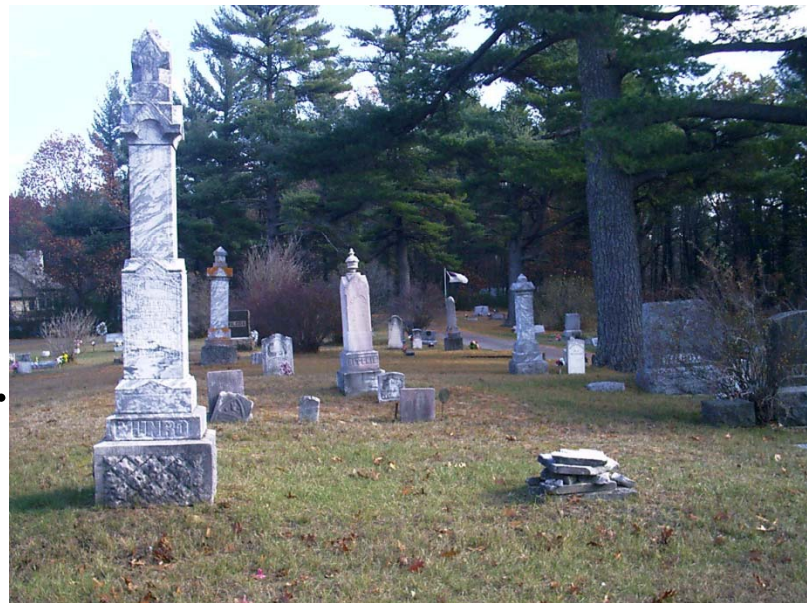
## Open Meetings Law Violations

A court may void a decision made at an illegal meeting if the public interest in enforcement of the Open Meetings Law outweighs public interests in sustaining the decision.

## Penalties

Any member

- \$25-\$300 non-reimbursable forfeiture.
- Attorney's fees may or may not be reimbursable.
- Loss of public trust.
- Personal embarrassment.





## Resources:

- Fact Sheet #1 Wisconsin Open Meetings Law  
<http://lgc.uwex.edu/program/pdf/fact1-03.pdf>  
Jim Schneider, UW-Extension Local Government Center
  
- Wisconsin Open Meetings Law: A Compliance Guide  
[http://www.doj.state.wi.us/AWP/2007OMCG-PRO/2007\\_OML\\_Compliance\\_Guide.pdf](http://www.doj.state.wi.us/AWP/2007OMCG-PRO/2007_OML_Compliance_Guide.pdf)  
Wisconsin Department of Justice



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**Prepared by: Dan Hill and James Schneider,  
Local Government Specialists, UW-Extension  
Local Government Center**

**610 Langdon Street, #232**

**Madison, WI 53703**

**608-265-2852**

**dan.hill@uwex.edu**