



City of Lawton

Lawton Youth Sports Trust Authority

Agenda

Lawton City Hall
212 SW 9th Street
Lawton, Oklahoma
73501-3944

Thursday, December 8, 2022

2:00 PM

City Hall- 3rd Floor Conference Room

"Official action can be taken only on items which appear on the agenda. LYSA may adopt, approve, ratify, deny, defer, recommend, amend, strike, or continue any agenda item. Under certain circumstances, items are deferred to a specific later date or stricken from the agenda entirely."

Call To Order

Roll Call

Reports

1. Programs Committee- Receive a report from Moini regarding the activities of the Programs Committee [22-784](#)
2. Facilities Committee- Receive a report from Chairman Henry regarding the activities of the Facilities Committee [22-785](#)
3. Parks & Recreation- Receive a report from the City of Lawton Parks & Rec Division [22-786](#)
4. Eastern Sports Management - Receive a report from Eastern Sports Management. [22-787](#)

Business

5. Consider approving the minutes of the November 10, 2022 meeting. [22-903](#)
Attachments: [11.10.22](#)
6. Consider approving a sublease agreement between Lawton Youth Sports Trust Authority, City of Lawton, and Lawton Public Schools for the Sublease of Land and Agreement for Use of a portion of Eastside Park and authorize the Chairman and Secretary to execute said sublease agreement. [22-869](#)
Attachments: [Eastside Park Lease Agreement - DRAFT -NOV 2022 -LYSA-LPS-COL](#)
7. Receive a presentation from the City Attorney's Office regarding the Oklahoma Open Meeting Act. [22-876](#)
Attachments: [Open Meetings](#)

Adjournment



City of Lawton

Lawton City Hall
212 SW 9th Street
Lawton, Oklahoma
73501-3944

Commentary

File #: 22-784

Agenda Date:

Agenda No: 1.

ITEM TITLE:

Programs Committee- Receive a report from Moini regarding the activities of the Programs Committee

INITIATOR: Chairman Brian Henry

STAFF INFORMATION SOURCE: Hossein Moini and Dr. Krista Ratliff

BACKGROUND: The Programs Committee will provide an update on monthly activities.

EXHIBIT: None.

KEY ISSUES: N/A

FUNDING SOURCE: N/A

STAFF RECOMMENDED COUNCIL ACTION: No action is to be taken.



City of Lawton

Lawton City Hall
212 SW 9th Street
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73501-3944

Commentary

File #: 22-785

Agenda Date:

Agenda No: 2.

ITEM TITLE:

Facilities Committee- Receive a report from Chairman Henry regarding the activities of the Facilities Committee

INITIATOR: Chairman Brian Henry

STAFF INFORMATION SOURCE: Chairman Henry

BACKGROUND: The Facilities Committee will provide an update on monthly activities.

EXHIBIT: None.

KEY ISSUES: N/A

FUNDING SOURCE: N/A

STAFF RECOMMENDED COUNCIL ACTION: No action is to be taken.



City of Lawton

Lawton City Hall
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73501-3944

Commentary

File #: 22-786

Agenda Date:

Agenda No: 3.

ITEM TITLE:

Parks & Recreation- Receive a report from the City of Lawton Parks & Rec Division

INITIATOR: Chairman Brian Henry

STAFF INFORMATION SOURCE: Parks & Recreation Division

BACKGROUND: The Parks & Rec Division will provide a monthly update on activities within their department to aide in the transition of Youth Sports from the City of Lawton to the Lawton Youth Sports Trust Authority.

EXHIBIT: None.

KEY ISSUES: N/A

FUNDING SOURCE: N/A

STAFF RECOMMENDED COUNCIL ACTION: No action is to be taken.



City of Lawton

Lawton City Hall
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Commentary

File #: 22-787

Agenda Date:

Agenda No: 4.

ITEM TITLE:

Eastern Sports Management - Receive a report from Eastern Sports Management.

INITIATOR: Chairman Brian Henry

STAFF INFORMATION SOURCE: Eastern Sports Management

BACKGROUND: Eastern Sports Management will provide an update on monthly activities.

EXHIBIT: None.

KEY ISSUES: N/A

FUNDING SOURCE: N/A

STAFF RECOMMENDED COUNCIL ACTION: No action is to be taken.



City of Lawton

Lawton City Hall
212 SW 9th Street
Lawton, Oklahoma
73501-3944

Commentary

File #: 22-903

Agenda Date: 12/8/2022

Agenda No: 5.

ITEM TITLE:

Consider approving the minutes of the November 10, 2022 meeting.

INITIATOR: Donalynn Blazek-Scherler, Recording Secretary

STAFF INFORMATION SOURCE: City Clerk's Office

BACKGROUND: The minutes of the November 10, 2022 meeting have been drafted and are awaiting approval.

EXHIBIT: November 10, 2022 Draft Minutes

KEY ISSUES: N/A

FUNDING SOURCE: N/A

RECOMMENDED ACTION: Approve the minutes of the November 10, 2022 meeting.



MINUTES
LAWTON YOUTH SPORTS TRUST AUTHORITY
LAWTON CITY HALL- 212 SW 9th Street, Lawton, Oklahoma
3rd FLOOR CONFERENCE ROOM
THURSDAY, NOVEMBER 10, 2022 2:00 P.M.

Chairman Henry called the meeting to order at 2:01 p.m. in the Third Floor Conference Room in City Hall. Notice of meeting and agenda were posted on the City Hall notice board as required by law.

I. ROLL CALL

PRESENT:

Sean Fortenbaugh
Brian Henry
Albert Johnson, Jr. (Arrived at 2:03pm)
Hossein Moini
Carey Monroe
Clint Powell
Krista Ratliff
Randy Warren

ABSENT:

Steve Coleman

ALSO PRESENT:

John Wack, President Eastern Sports Management
Mitch Dooley, Deputy Parks & Rec Director
Greg Gibson, City Attorney's Office
Michael Cleghorn, City Manager
Dewayne Burk, Deputy City Manager
Ryan Brady, Parks & Rec Department
Donalynn Blazek-Scherler, Recording Secretary
Kim McConnell, Lawton Constitution
Eric Swanson, Southwest Ledger

Reports

1. **Programs Committee-** Receive a report from Moini regarding the activities of the Programs Committee.

No report given.

2. **Facilities Committee-** Receive a report from Chairman Henry regarding the activities of the Facilities Committee.

No report given.

3. **Parks & Recreation-** Receive a report from the City of Lawton Parks & Rec Division.

Mitch Dooley introduced himself as the new Deputy Director of Parks and Rec for the City of Lawton.

4. Eastern Sports Management- Receive a report from Eastern Sports Management.

Chairman Henry introduced John Wack, President of Eastern Sports Management. Henry stated Wack is in town working on the feasibility study for the indoor facility that was approved by LYSA at last month's meeting. Chairman Henry clarified that the information provided by Mr. Wack today is all preliminary.

Wack explained the work that he and his team have done and the assumptions he is currently using while looking at potential sites. Wack reiterated that what he is presenting is preliminary. Wack presented examples of possible space plans and how the largest footprint of the space plans fits on the current top 10 identified possible sites. Wack discussed pros and cons of each site including parking, expansion potentials, TIF districts, and flooding issues. This report is available in the City Clerk's Office.

Wack stated that Matt Elliott has advised him that he has been working with the Lawton Soccer Club to introduce futsal this Winter.

New Business:

5. Consider approving the minutes of the October 13, 2022 meeting.

Motion by Warren, **Second** by Moini, to approve the minutes of the October 13, 2022 meeting. **AYE:** Henry, Johnson, Moini, Monroe, Powell, Ratliff, Warren, Fortenbaugh. **NAY:** None. ***Motion Passed.***

6. Consider approving a proposed Annual Meeting Notice for calendar year 2023.

Motion by Johnson, **Second** by Ratliff, to approve the proposed Annual Meeting Notice for 2023 as presented. **AYE:** Johnson, Moini, Monroe, Powell, Ratliff, Warren, Fortenbaugh, Henry. **NAY:** None. ***Motion Passed.***

7. Consider approving an amended lease agreement between the City of Lawton and Lawton Youth Sports Trust Authority for the Lease of Land and Agreement for Use of a portion of Eastside Park and authorize the Chairman and Secretary to execute said lease agreement.

Chairman Henry explained that some edits were needed to the lease agreement that was approved at the previous month's meeting. He stated the biggest issue was that the exclusive use was to LYSA. Legal says that can't happen because the City is still providing the maintenance. The language now is non-exclusive but with priority. There was also language that did not allow us to sublet, so that was changed, and the date was changed from December to the end of the fiscal year.

Chairman Henry stated it is still our intention to work with LPS on using facilities. My goal is to have a contract with them drafted to be approved next month so they can begin using some of these fields in February.

Motion by Moini, **Second** by Monroe, to approve an amended lease agreement between the City of Lawton and Lawton Youth Sports Trust Authority for the Lease of Land and Agreement for Use of a portion of Eastside Park and authorize the Chairman and Secretary to execute said lease agreement.

Adjournment

Motion by Ratliff, **Second** by Warren, to adjourn the meeting of November 10, 2022.
AYE: Monroe, Powell, Ratliff, Warren, Fortenbaugh, Henry, Johnson, Moini **NAY:** None. ***MOTION PASSED.***

There be no further business, the meeting adjourned at 2:34 PM.



City of Lawton

Lawton City Hall
212 SW 9th Street
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73501-3944

Commentary

File #: 22-869

Agenda Date: 12/8/2022

Agenda No: 6.

ITEM TITLE:

Consider approving a sublease agreement between Lawton Youth Sports Trust Authority, City of Lawton, and Lawton Public Schools for the Sublease of Land and Agreement for Use of a portion of Eastside Park and authorize the Chairman and Secretary to execute said sublease agreement.

INITIATOR: Brian Henry, Chairman

INFORMATION SOURCE: Facilities Committee

BACKGROUND: An agreement between Lawton Youth Sports Trust Authority, City of Lawton, and Lawton Public Schools for the sublease of land and use of facilities for a section of Eastside Park, more particularly described as "A parcel of land lying in the SE ¼ of Section 27, Township 2 North, Range 11 West, of the Indian Meridian, Comanche County, Oklahoma, further described as the S/2 NW/4 SE/4 & N/2 NW/4 SW/4 SE/4 SW5/ SE/4 has been drafted and is awaiting approval.

EXHIBIT: Sublease Agreement between Lawton Youth Sports Trust Authority, City of Lawton, and Lawton Public Schools for a portion of Eastside Park

KEY ISSUES: N/A

FUNDING SOURCE: N/A

STAFF RECOMMENDED COUNCIL ACTION: Approve the sublease agreement between Lawton Youth Sports Trust Authority, City of Lawton, and Lawton Public Schools for the sublease of Land and Agreement for Use of a portion of Eastside Park and authorize the Chairman and Secretary to execute said sublease agreement.

SUBLEASE AGREEMENT

THIS AGREEMENT is entered into this ____ day of _____, 2022 by and between the Lawton Youth Sports Trust Authority, a public trust (hereinafter called "Authority") and the Lawton Public Schools (herein called "LPS").

WITNESSETH:

In consideration of the mutual covenants herein contained, the parties hereby stipulate and agree that the purpose of this Lease Agreement is to aid the Authority in its mission to promote, create and grow youth sports opportunities in the City of Lawton by administering a diverse set of programs that foster increased participation in athletics.

1. **Lease of Land.** Authority hereby sublets and subleases to LPS, for good and valuable consideration of ten dollars (\$10.00) payable to the Authority at commencement of the lease, a portion of Eastside Park, more particularly described as follows:

A parcel of land lying in the SE ¼ of Section 27, Township 2 North, Range 11 West, of the Indian Meridian, Comanche County, Oklahoma, further described as the S/2 NW/4 SE/4 & N/2 NW/4 SW/4 SE/4 & E/2 SE/4 SW/4 SE/4;

Location map attached.

2. **Provisions.** The provisions of the Agreement for Use of Recreational Complex ("Eastside Park") are as follows:

- (A) LPS shall have non-exclusive use of two (2) ball fields, as described on the attached map and indicated at Field 1 and 2 for the complete term of this agreement.
- (B) Utilization of the ball fields by LPS shall be for the operation of youth sports programming.
- (C) During the period that LPS has nonexclusive use of the ball fields, LPS shall in addition have nonexclusive use of the scoreboards and lights associated with the fields. During this period LPS shall assume all responsibility for all maintenance of the two (2) ball fields including grounds, turf, weed control, mowing and edging associated with the fields. The concession stands, restrooms, playground, and common areas may be utilized by LPS, but not exclusively, and will continued to be maintained by LPS if use of concession stands is granted. LPS will be provided the necessary keys for use of the facilities. LPS shall ensure that all facilities are

secured at the completion of each day's activities.

- (D) Pursuant to the Lease Agreement between the City of Lawton and the Authority, dated November 16, 2022 The City of Lawton will turn the water to the main line of the system on and off as requested by the Authority. The Authority will control the operation of the system.
 - (E) LPS will be responsible for trash and debris cleanup after the LPS' use of the fields.
 - (F) LPS will be responsible for the repair of any damages caused by its use.
 - (G) Pursuant to the Lease Agreement between the City of Lawton and the Authority, dated November 16, 2022, the City of Lawton shall bear all cost for electricity used at Eastside Park.
 - (H) During the term of this agreement, any alleged liability which may have been caused by or during such use, for example property damage or personal injury to third parties, shall be administered by the party with the nonexclusive use subject to the terms and conditions of the Oklahoma Governmental Tort Claims Act, Oklahoma Statutes, title 51 (1991), §151 et seq., including the exemptions from liability found at §155. In no way is it intended that this section impose liability for any damages unless said liability is determined by a court of competent jurisdiction. Each party shall be responsible for damage to the complex carried by the negligent act of its employees, agents and servants.
3. **Term.** This lease shall commence on the date first written above and shall terminate on June 30, 2023, unless terminated earlier as agreed upon by both parties.
4. **Concessions.** LPS shall honor any "Lease and Non-Exclusive Concession Operation Agreement" between the City of Lawton and third parties.
5. **Improvements.** Any improvements to the leased premises desired by LPS shall be made solely at LPS' expense.
6. **Disposition of Property.** Upon the expiration or termination of this Lease Agreement, any improvements made by LPS shall become the sole property of the City of Lawton. City will not pay or reimburse LPS for any

such improvements made to the leased premises.

7. **Assignment and Sublease.** LPS may not assign or sublease under this Nothing in this paragraph shall prevent the Authority from permitting another organization or entity to operate concessions as provided in paragraph 4.

8. **Successors and Assigns.** This Lease Agreement and all the terms, covenants, conditions and provisions thereof shall inure to the benefit of and be binding upon the legal representatives, successors and assigns of the parties hereto.

9. **Interpretation.** The parties, in making the Agreement, have entered into it with the hope that the use of the facilities to be provided at the recreation complex shall be of great advantage to the people of the City of Lawton, and they pledge to each other on all occasions, when and if questions arise concerning the true intent and meaning of this contract, that they will endeavor to so treat each other as to give evidence of the highest good faith and the greatest consideration each for the other, in order that unseemly and unfortunate differences may never develop between them.

10. **Governing Law, Jurisdiction, and Venue.** This Agreement will be governed by the laws of the State of Oklahoma. Jurisdiction and venue will be in the District Court of Comanche County, Oklahoma, or the Federal Western District of Oklahoma.

11. **Complete Agreement.** This written document, contains the entire agreement of the parties with respect to the subject matter hereof, and can be amended only by a written agreement signed by both parties.

12. **Waiver.** No waiver of any breach of covenant, condition, term or provision herein contained shall be construed as a waiver of the covenant, condition, term or provision itself or any subsequent breach thereof.

IN WITNESS WHEREOF, the parties have signed this Agreement on the year and date first above written.

LAWTON YOUTH SPORTS TRUST
AUTHORITY, a public trust

BY: _____
Brian Henry, CHAIRMAN

ATTEST:

SECRETARY
(SEAL)

Lawton Public Schools

BY: _____
Kevin Hime, Superintendent of LPS

ATTEST:

CITY OF LAWTON:

BY: _____
Stan Booker, Mayor

ATTEST:

Traci Hushbeck, City Clerk

Approved as to form and legality this _____ day of _____, 2022.

BY: _____
John Ratliff, City Attorney



City of Lawton

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212 SW 9th Street
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Commentary

File #: 22-876

Agenda Date: 12/8/2022

Agenda No: 7.

ITEM TITLE:

Receive a presentation from the City Attorney's Office regarding the Oklahoma Open Meeting Act.

INITIATOR: City Attorney's Office

STAFF INFORMATION SOURCE: City Attorney's Office

BACKGROUND: The City Attorney's Office is starting an initiative to educate all City Boards, Commissions, and Trust Authorities on the responsibilities and rules of conducting a meeting. This will give each group a chance to review the Open Meeting Act and the documents that govern their boards with an attorney. This is an opportunity to get expert advice on all things about open meetings.

EXHIBIT: Open Meeting Act PowerPoint Presentation

KEY ISSUES: Ensuring the Lawton Youth Sports Trust Authority remains in compliance with the Oklahoma Open Meeting Act

FUNDING SOURCE: N/A

STAFF RECOMMENDED ACTION: No action is to be taken.

Understanding Oklahoma's Open Meeting Act & Open Records Act

Oklahoma Attorney General's Office

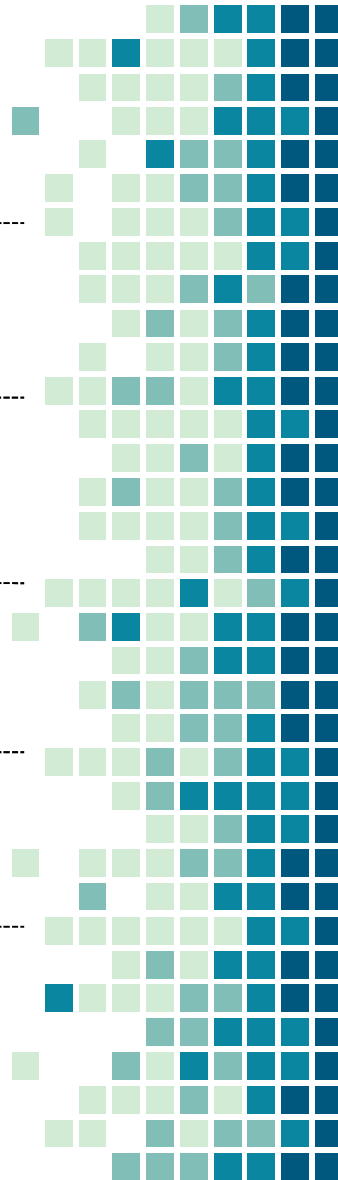
The Open Meeting Act

Title 25 O.S. §§ 301-314

Overview



- 1 When is the Act triggered?
- 2 What actions must be taken before meetings?
- 3 What procedures must be followed during meetings?
- 4 What consequences may ensue from violations of the Act?

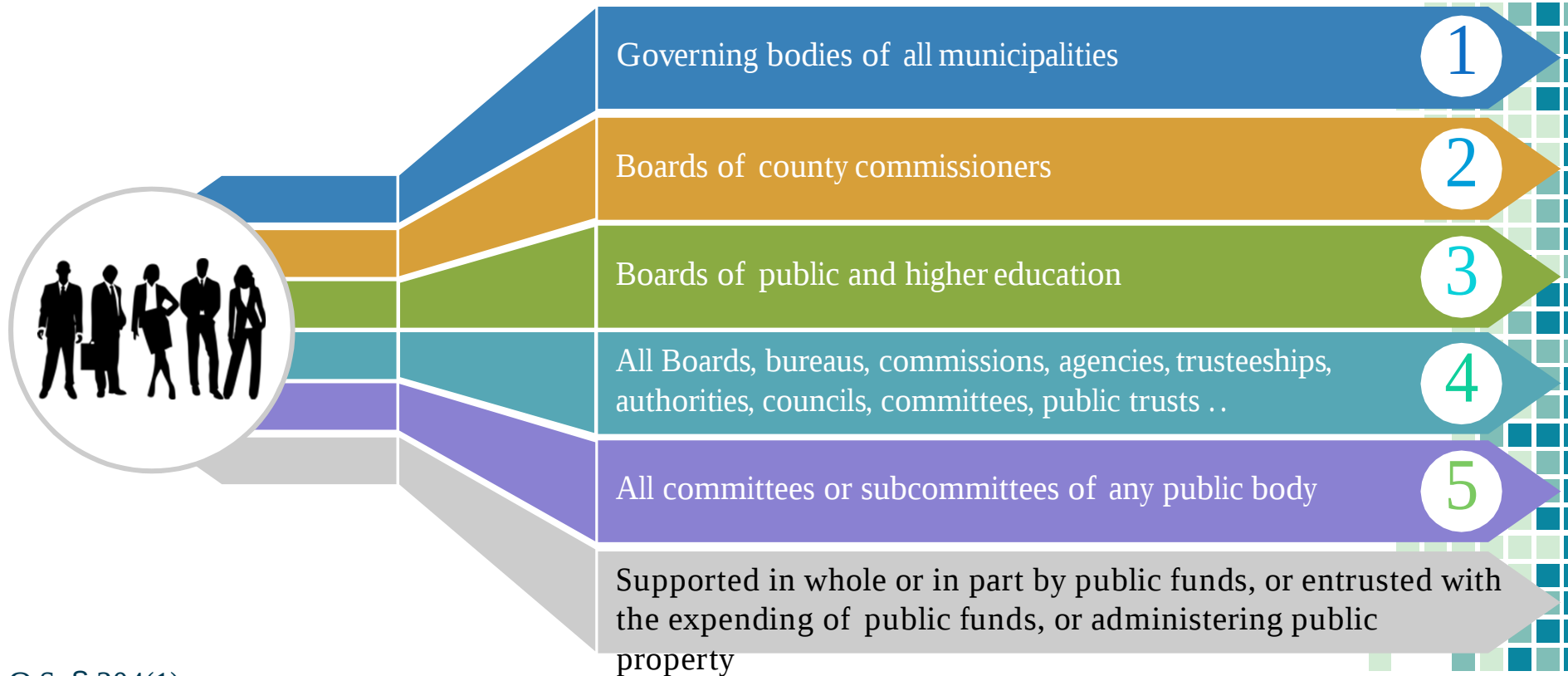


When is the OMA triggered?

- Every regular, special, emergency, or reconvened *meeting* of a *public body* shall be open, except as provided by the Act.
- The Act applies when there is a:
 - majority of a public body together,
 - and that public body is conducting the business of the public body
- “Public body” and “meeting” are both defined by statute.



“Public Body” Defined

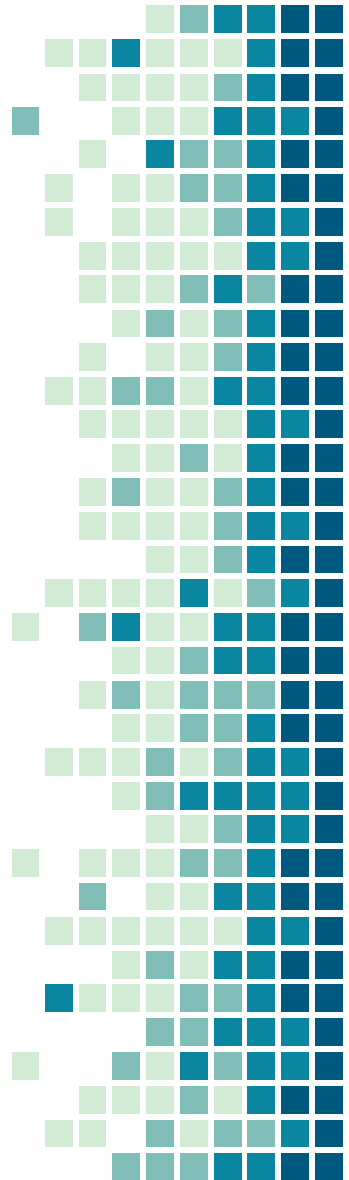


25 O.S. § 304(1)

“Meeting” Defined

- When conducting business of a public body
- By a majority of its members
- Being personally together, OR, by teleconference, as authorized by § 307.1
- *Note:* a “meeting” does not include informal gatherings of a majority of members when no business of the public body is being discussed. 25 O.S. § 304(2).

25 O.S. § 304(2)



Electronic and Telephonic Communications

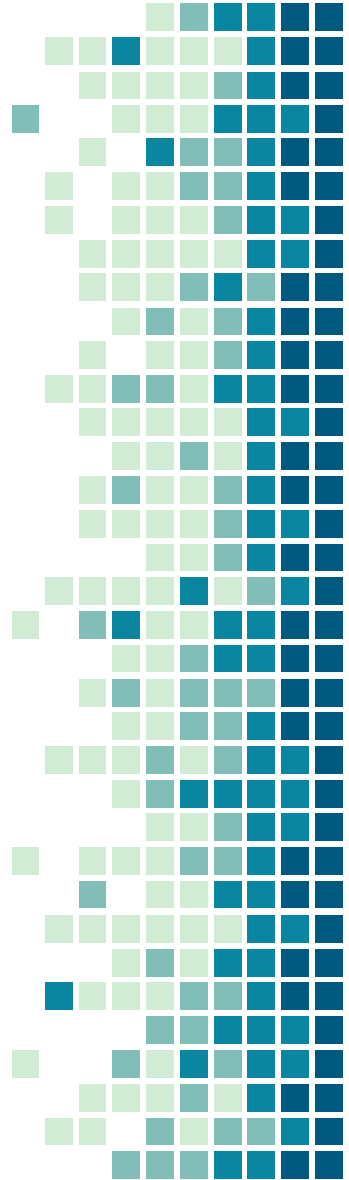
- Prohibits deciding or taking action (voting) on any matter by phone or email
- Also prohibits deciding or taking action on any matter at an “informal gathering”
- *Caution!* Discussion in a group email/social media group can create a virtual meeting subject to the OMA.

25 O.S. § 306

Hypothetical: Post-Board Meeting Lunch

- Does the OMA apply?
- Best Practice: majority of body's members should not attend lunch together
- *Note.* If members insist on a group lunch, announce it at the end of the meeting, and invite everyone to join the public body.

25 O.S. § 306



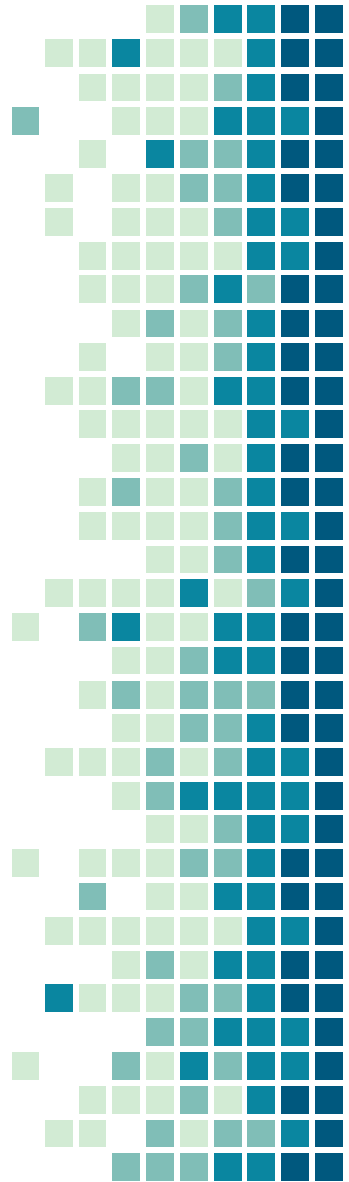
2.
What actions must
be taken before
meetings?



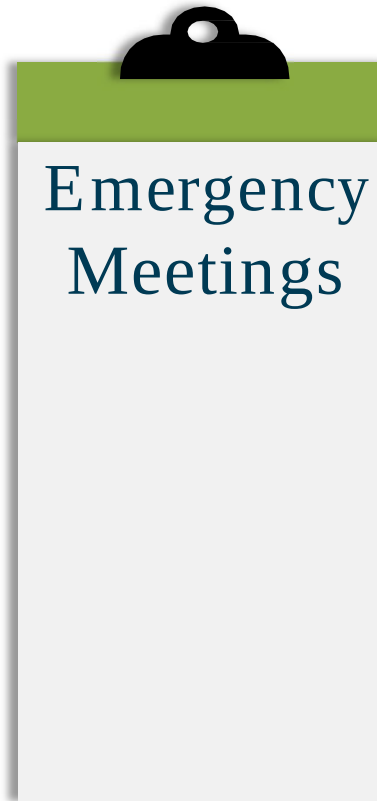
Required Pre-Meeting Actions

☒ Provide Notice

☒ Post Agenda



Four Types of Meetings



25 O.S. § 304(3)-(6)

Provide Notice: Regular Meetings

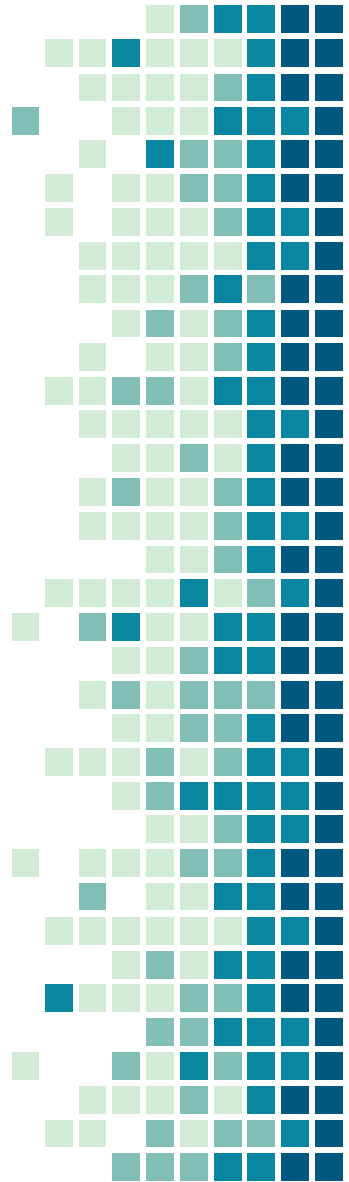
- *When?*
 - Annually by December 15 for the next calendar year
 - Include *date, time, and place* of meetings
 - Regular meetings can be changed with 10 days notice to the appropriate office, and limited new business is permitted

25 O.S. § 311

Provide Notice: Regular Meetings

- *To whom?*
 - State public bodies: Secretary of State
 - County public bodies: County Clerk of the county where the body is principally located
 - Municipal public bodies: municipal clerk

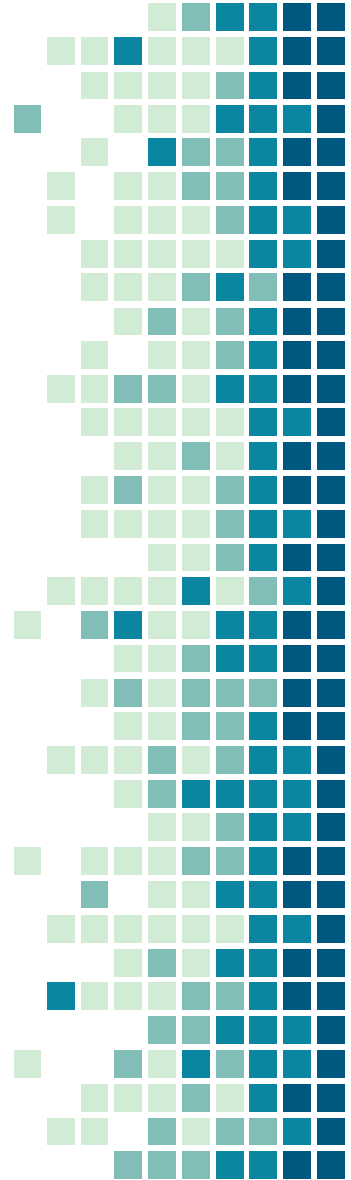
25 O.S. § 311



Provide Notice: Special Meetings

- *When:* 48 hours notice of date, time, and place
 - Excludes Saturdays, Sundays, and State holidays
- *Form:* includes notice
 - Notice: in writing, in person, or by telephonic means to the proper record keeping official (i.e. SOS, county clerk) AND to those who have filed written requests to receive notice of a meeting

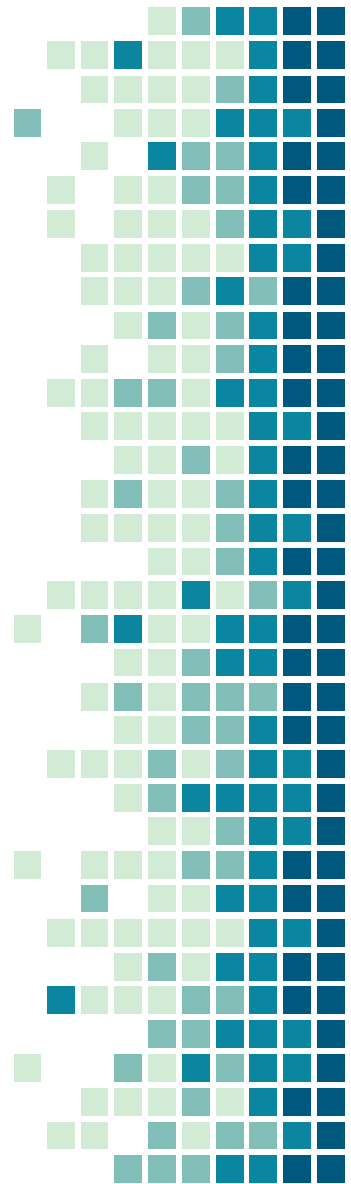
25 O.S. § 311(A)(12)



Provide Notice: Emergency Meetings

- *Defined:* “[A] situation involving injury to persons or injury and damages to public or personal property or immediate financial loss when the time requirements for public notice of a special meeting would make such procedure impractical and increase the likelihood of injury or damages or immediate financial loss”
- *When:* Give advance notice that is reasonable and possible under the circumstances.
- *Form:* Give notice as soon as possible, whether in person, by phone, or electronic means.

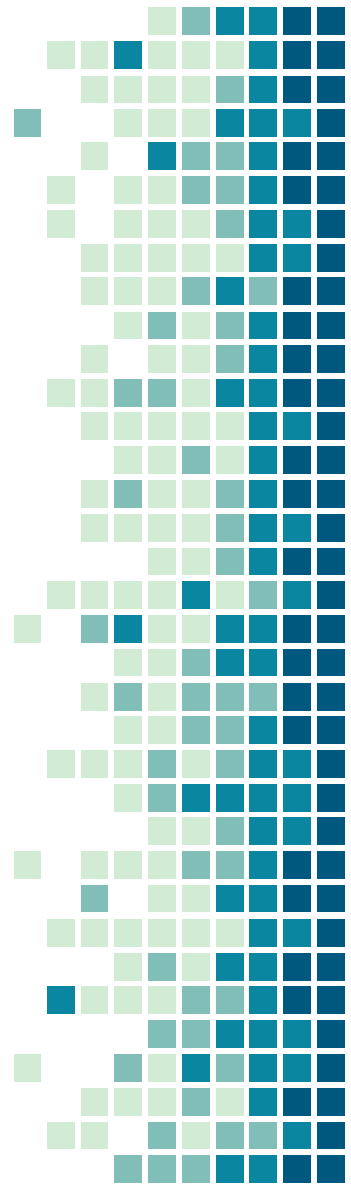
25 O.S. § 311(A)(13)



Provide Notice: Continued or Reconvened Meetings

- *When:* Announce date, time, and place of continued/reconvened meeting at original meeting

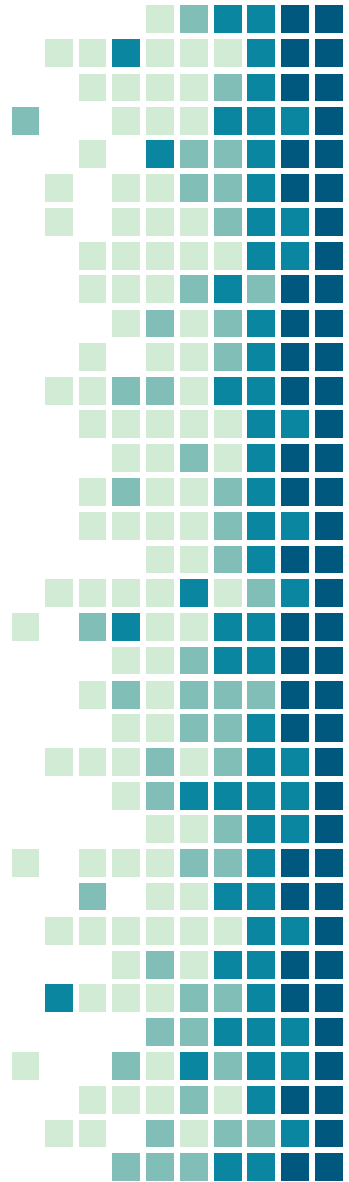
25 O.S. § 311(A)(11)



Post the Meeting's Agenda

- *When:*
 - Regular Meeting: Display agenda 24 hours prior to meeting, excluding Saturday, Sunday, and Oklahoma State holidays
 - *Ex: Meeting is at 10:00 a.m. on Monday, so agenda must be posted no later than 10:00 a.m. the Friday before.*
 - Special Meeting: Notice posted 48 hours in advance and agenda posted 24 hours prior to meeting

25 O.S. §§ 311(A)(9)-(10), (12)



Post the Meeting's Agenda

- *Where:*

1. Post notice and agenda at principal office (or location of meeting if no office exists)

- *Must be visible to the public the entire 24 hours before the meeting begins*

OR

2. Post on public body's website

- Must also maintain an email distribution system and send notice to this group no less than 24 hours in advance,
- *AND*, post notice and agenda at the principal office (or location of meeting) during normal business hours at least 24 hours in advance

25 O.S. §§ 311(A)(9)-(10), (12)



Post the Meeting's Agenda

- *What?*

Must contain sufficient information for the public to identify the items of business and the purpose. 25 O.S. § 311(B).

“Agendas [must] be worded in plain language, directly stating the purpose . . . The language used should be simple, direct and comprehensible to a person of ordinary education and intelligence.”

Haworth Bd. of Ed. v. Havens,
637 P.2d 902, 904 (Okla. Civ. App. 1981).



Agendas

- Cannot take action if the action is not on the agenda
- Cannot be vague
 - *Ex: “Executive Director’s Report”*
 - Needs more detail on what the report will cover.
- List *proposed* executive sessions
- New Business only permitted at regularly scheduled meetings

25 O.S. § 311(B)

New Business

- Defined: “Any matter not known about or which could not have been reasonably foreseen prior to the time of posting [the agenda].”
 - *New Business is NOT what someone forgot needed to be on the agenda.*
- To consider new business at a regular meeting, timely post an agenda containing an item called “new business.”
- New business is only allowed at a regular meeting
- Caution! Use sparingly, only when not reasonably foreseeable prior to posting the agenda.

25 O.S. § 311(A)(10)

3.
What actions must
be taken during
meetings?



When and Where to Hold Meetings

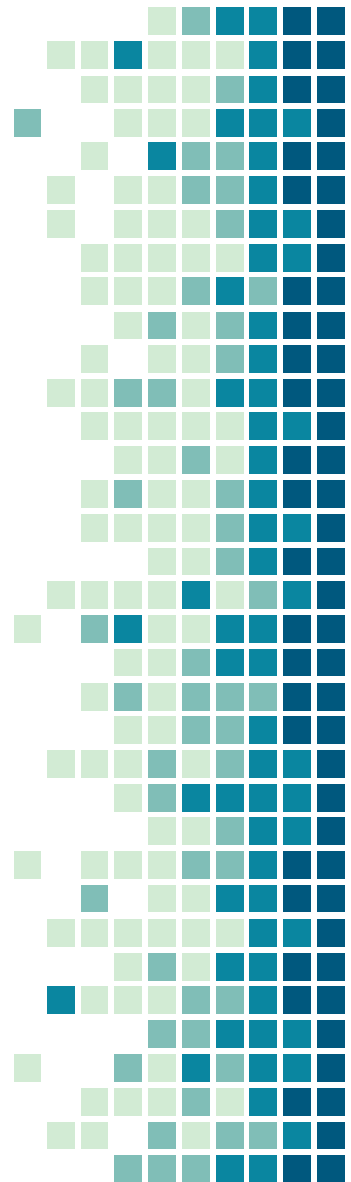
- Meetings “shall be held at specified times and places which are convenient to the public”
- Use good judgment
 - Not a locked courthouse on a public holiday.
Rogers v. Excise Bd., 1984 OK 95, 701 P.2d 754.

25 O.S. § 303

Recording Votes

- The vote of each member must be both:
 - Publicly cast, AND
 - Recorded
- Section 306's prohibition on informal gatherings ensures actions are taken publicly and recorded
- Caution! Failure to meet both requirements results in the action being invalid. *Oldham v. Drummond Bd. of Ed.*, 1975 OK 147, 542 P.2d 1309.

25 O.S. § 305



Recording Votes

- Must record the vote of each individual member at a meeting
- If vote is unanimous, it is sufficient to record “5-0 in favor of...” *Graybill v. Oklahoma State Bd. of Educ.*, 1978 OK 124, 585 P.2d 1358.
 - However, best practice is to record how each individual voted, including yes and no votes, and whether there were any abstentions.

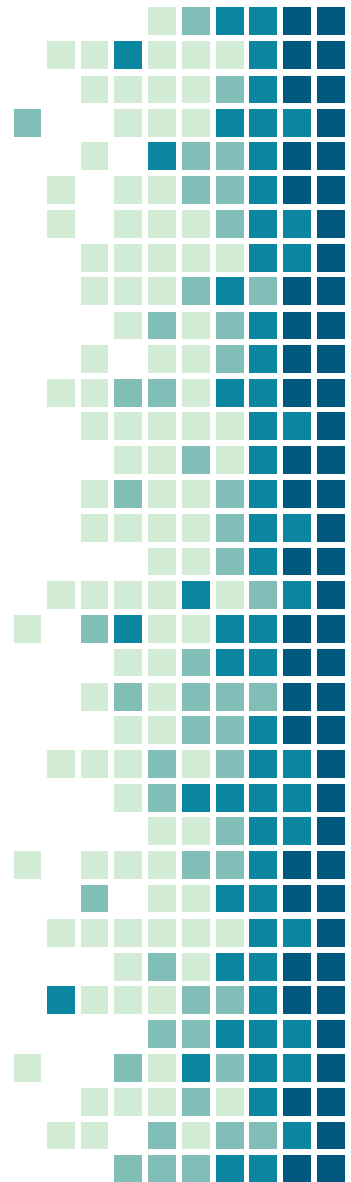
25 O.S. § 305

Minutes

Minutes must be written and include:

- Official *summary* of the proceeding
- Identification of:
 - all members present and absent (2012 OK AG 24)
 - all matters considered
 - all actions taken
- Should reflect manner and time notice was given
- Any person may record the meeting, provided it does not interfere with the meeting
- Note: Minutes of public meetings are open records.

25 O.S. § 312



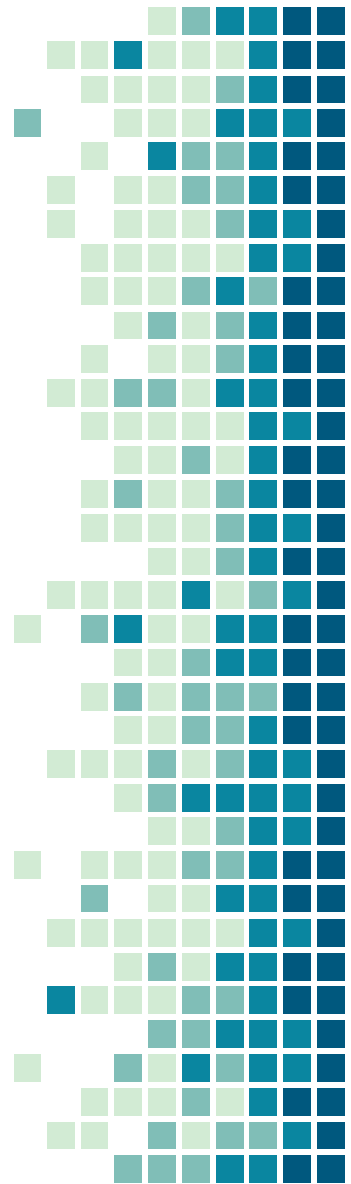
Minutes

- Minutes must be taken in Executive Session.
Berry v. Bd. of Gov. of Registered Dentists, 1980 OK 45, 611 P.2d 628.
 - However, minutes taken in Executive Session may be kept confidential under the Open Records Act.
51 O.S. § 24A.5(1)(b).
- Minutes for Emergency Meetings: § 312(B)
 - Must state nature of emergency
 - Must include reasons for declaring emergency meeting

25 O.S. § 312

Public Comment

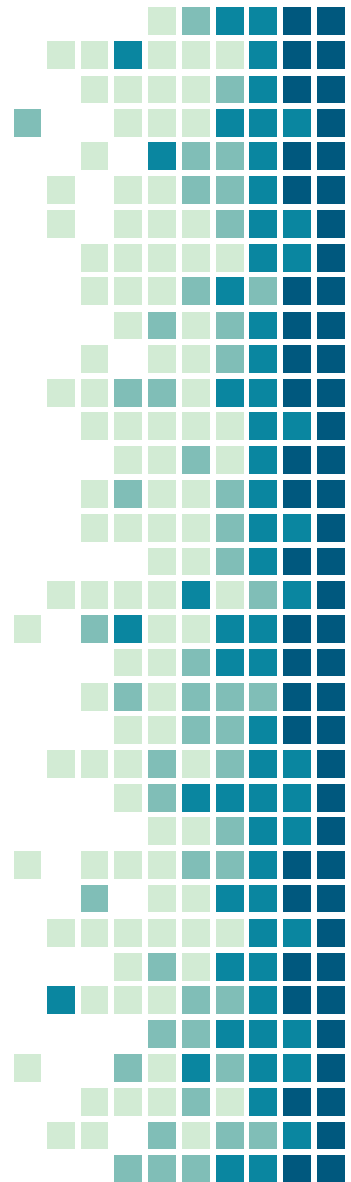
- Public Comment: A public body is not required to provide opportunity for citizens to speak (2002 OK AG 26; 1998 OK AG 45).
 - If public body chooses to allow public comment, it is advisable to set policy.
 - Could limit comments to agenda items only and/or set a time limit.
 - Public body should be careful not to discuss topics on the agenda during public comment portion of meeting.



Executive Sessions

- General Rule: No executive sessions unless specifically authorized in § 307 or another statute.
- Limited Permissible Purposes:
 - Personnel matters (25 O.S. § 307(B)(1))- construed narrowly
 - Not job openings (2006 OK AG 17)
 - Not hiring independent contractors (2005 OK AG 29)
 - Must identify individual or unique position (1997 OK AG 61)
 - Purchase or appraisal of real property (25 O.S. § 307(B)(3))
 - Confidential communications with attorney concerning pending investigation, claim or action (25 O.S. § 307(B)(4))
 - Other specific statutes
- Violation: Criminal liability and minutes and records of the executive session shall be made public

25 O.S. § 307



Executive Sessions

- Special Procedures-Convening Executive Session:
 - *Proposed* executive session must be noted on agenda.
(25 O.S. § 311(B) and 82 OK AG 114).
 - Include specific citation to which provision of § 307 authorizes
 - Must take vote at the meeting to go into executive session and have majority of quorum to convene executive session. (25 O.S. § 307(E)(2)).
 - No executive session by videoconference (25 O.S. § 307(B)).



Executive Sessions

- Special Procedures-Deliberation Only:
 - Votes cannot be taken in executive session.
 - Can discuss, but actions arising out of executive session must be taken in an open meeting.
 - Must take and keep minutes (i.e. what happened, who was there). *Berry v. Bd. of Gov. of Registered Dentists*, 1980 OK 45, 611 P.2d 628.
 - Must vote to come out of executive session and record those votes publicly

25 O.S. § 307(E)

4.

What consequences
may ensue from
violations of the
OMA?



Penalties and Remedies Under the OMA

Civil Implications

- ❖ Actions taken in willful violation are invalid. 25 O.S. § 313.
- ❖ Minutes of an Executive Session will be made public where the OMA is willfully violated. 25 O.S. § 307(F)(2).
- ❖ Any person can bring a civil action. 25 O.S. § 314(B).
- ❖ Successful party is entitled to reasonable attorney fees

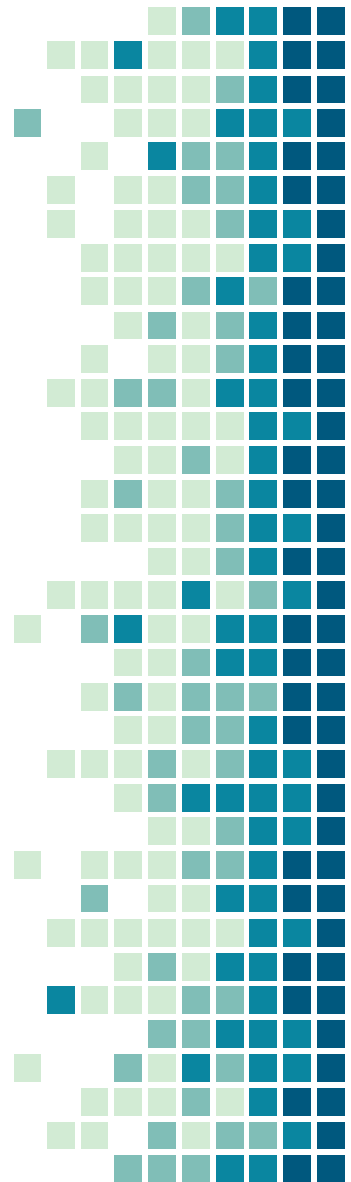
Criminal Penalties

- ❖ Any willful violation of the provisions of the Act are punishable
- ❖ Misdemeanor offense
- ❖ Fine up to \$500 and/or up to one (1) year in the county jail. 25 O.S. § 314.

Willful Violation

- “The Act provides that any action taken in willful violation shall be invalid. Willfulness does not require a showing of bad faith, malice, or wantonness, but rather, encompasses *conscious, purposeful violations of law or blatant or deliberate disregard of the law by those who know, or should know* . . . Notice of meetings of public bodies which are deceptively vague or likely to mislead constitute a willful violation.”

Rogers v. Excise Bd. of Greer County, 1984 OK 95, 701 P.2d 754.



How to Correct an OMA Mistake

- If not in compliance with OMA when an action is taken, the act will be invalid.
- The public body should redo its action in conformity with the OMA.
- How? Depends on the type of mistake.
 - Give proper public notice and put item on next meeting's agenda
 - Re-vote and record the decision in the public meeting