

Closed Sessions

Educational Video Outline

By: Carol Nawrocki

WTA Senior Legal Counsel

What is a closed session?

- A meeting of the governmental body that is not open to the public

Who may attend a closed session?

- Only the members of the governmental body have a right to attend the session
- The board may decide to invite in others such as the clerk, treasurer, town attorney, town employee, etc.

Can the town board attend another body's closed session?

- The town board can attend closed sessions held by a “subunit” of the body. A subunit is made up of members of the parent body.
- A plan commission or fire commission is not a subunit of the town board and the town board would not have a right to attend closed sessions held by those bodies.

How is proper notice provided?

- If the chair knows that a closed session is anticipated, he or she must put the applicable statutory exemption on the agenda and specifically state the subject matter that allows for the closed session

Can an unanticipated closed session ever be held?

- If a meeting has been called with proper notice and a topic on the agenda allows for a closed session, the board may vote to have an unanticipated closed session
- The topic to be discussed in closed session should be moved to the last item on the agenda

Procedure for convening into closed session

- Call the meeting to order in open session
- Motion to go into closed session is made
- Chair announces statutory exemption and specific business to be conducted
- Roll call vote to go into closed session recorded as part of the minutes

When are closed sessions required?

- Closed sessions are never required
- If one of the statutory exemptions listed under s. 19.85, Wis. Stat. applies to the subject matter before the body, the body simply has the option of convening into closed session

Closed meeting exemptions

- About 6 that apply to local governments--
- Judicial or quasi-judicial hearing exception usually *doesn't* apply to local gov'ts
- Employment or licensing matters with an evidentiary hearing or taking of final action
- Consideration of employment, promotion, compensation and performance evaluations of public employees

Exemptions cont'd

- Consideration of financial, medical, social, or personal information or preliminary consideration of specific personnel problems or the investigation of charges which if discussed in public would have an adverse effect upon the reputation of any person involved

Exemptions cont'd

- Conducting public business with competitive or bargaining implications
- Conferring with legal counsel about pending or likely litigation

Can someone force a closed session?

- Employees or members of the public may request a closed session, but they cannot require one
- If a closed meeting exemption fits, the town has the discretion to vote to go into closed session

Voting in closed session

- Allowable if statutes specifically allow it or it is absolutely necessary for bargaining purposes, etc.
- In other circumstances the body should have discussion in closed session and then return to open session to vote

Reconvening in open session

- If there is no further business to discuss, the board can adjourn from closed session and go home
- The board cannot reconvene into open session with 12 hours of the closed session unless previous notice has been provided

Closed session minutes

- Minutes should be taken in the closed session
- Minutes should indicate the time the session started and ended, who was present, motions made, votes taken
- Details of the discussion may be limited to identification of the topic discussed

Electronic recordings

- We recommend that recordings not be made of closed sessions because such recordings would be a public record subject to possible release