

Open and Public Meetings Act and GRAMA

The Open and Public Meetings Act (the “Open Meetings Act”) has been on the books in Utah for thirty years now and the Government Records Access and Management Act (“GRAMA”) for nearly twenty. These two Acts are fundamental pillars of the way that the business of government is conducted in Utah. The Open Meetings Act states a very clear public policy that the state and its political subdivisions are to “take their actions openly” and “conduct their deliberations openly”. U.C.A. § 52-4-102(2). Similarly, GRAMA recognizes “the public’s right of access to information concerning the conduct of the public’s business” (while also recognizing “the right of privacy in relation to personal data gathered by governmental entities”). U.C.A § 63-2-102(1). These two Acts laid the foundation for a growing public expectation of “transparency” in our local governments. As important as these two Acts are, they do not require transparency beyond the specific thresholds they create.

Generally, the Open and Public Meetings Act requires that a public body, like the Coalition Board, may only take actions on matters that are placed on an agenda for consideration in a public meeting and that such agenda is posted of the Coalition’s main office and posted on the Utah Public Notice Website at least 24 hours prior to the meeting. Matters not on the agenda may be raised by the public or members of the public body, but no action can be taken on such matters. The primary limitation on the foregoing, is that a public body may go into closed or executive session for very limited purposes, the three most prominent of which are 1) reasonably imminent threat of litigation, 2) character and competence of an individual, and 3) possible real property transactions. A recording of the closed or executive session shall be kept, except for discussions of character and competence of an individual. Minute may be kept, but are not required. A two-thirds majority is required to go into closed session. The recording and minutes of a closed or executive session are protected records under GRAMA.

If a public body were to improperly take action contrary to the Open and Public Meetings Act, the primary cure is for the topic to be placed on the next meeting agenda so that the matter may be correctly considered. If properly reconsidered, then the initial action is superceded and replaced by the subsequent correct action.