

Open Meetings Act—Calling Closed Meetings

Introduction

The Michigan Open Meetings Act (OMA) provides that all meetings of a public body shall be open to the public and be held in a place available to the general public. (MCL 15.261 et seq.) The OMA also provides, however, for those situations in which a public body may meet in closed or executive session. (MCL 15.268) The circumstances under which a public body may go into a closed session are specifically spelled out in the Act, as is the procedure for going into a closed session.

How do we call a closed session?

From an open meeting, a two-thirds roll call vote is required, except for closed sessions permitted under MCL 15.268(a) (discipline, personnel evaluation, etc. of official/employee) or MCL 15.268(c) (collective bargaining) which require a majority vote. A roll call vote and the purpose for calling a closed session shall be entered into minutes of the open meeting.

When may closed sessions be held?

- To consider dismissal, suspension or disciplining of, or to hear complaints or charges brought against, or to consider a periodic personnel evaluation of, a public officer or employee if requested by the named person. [majority vote]
- For strategy and negotiation sessions connected with negotiation of collective bargaining agreement if requested by either negotiating party. [majority vote]
- To consider purchase or lease of real property up to the time an option to purchase or lease of that property is obtained. [two-thirds roll call vote]
- To consult with an attorney regarding trial or settlement strategy in connection with specific pending litigation, but only if an open meeting would have detrimental financial effect on municipality's litigating or settlement position. [two-thirds roll call vote]
- To review and consider contents of application for employment or appointment to public office if candidate requests that application remain confidential. [two-thirds roll call vote] Interviews by public body for employment or appointment to public office must be held in an open meeting. (The Act does contain an exception to this requirement for the selection of college/university presidents under certain conditions.)
- To consider material exempt from discussion or disclosure by state or federal statute. [two-thirds roll call vote]

NOTE: Each of the purposes which allow a closed session begins with "to consider," "to consult," or "to review." Any action must be taken in open session.

How do we end a closed session?

A member of the public body moves to return to open session. The public body performs any action required as a result of the closed session in open session. The meeting then proceeds with other matters or adjourns in the normal fashion.

Open Meetings Act—Definitions and Requirements

Definitions

Public Body	Any local legislative or governing body, including a board, commission, committee, subcommittee, authority or council, empowered to exercise governmental or proprietary authority or function.
Meeting	The convening of a public body at which a quorum is present for the purpose of deliberating toward or rendering a decision on a public policy.
Closed Session	A meeting or part of a meeting of a public body which is closed to the public.
Decision	A determination, action or vote on a motion, proposal, recommendation, resolution or ordinance, on which a vote by members of a public body is required and by which a public body effectuates or formulates public policy.
Person	An individual, corporation, partnership, organization, or association. This does not include an individual serving a sentence of imprisonment in a state or county correctional facility in this state or any other state, or in a federal correctional facility.

Requirements for Meetings

- All meetings of a public body shall be open to the public and shall be held in a place available to the general public. A person may tape record, video tape, broadcast live, and telecast live the proceedings. A public body may establish reasonable rules and regulations in order to minimize the possibility of disrupting the meeting.
- All decisions of a public body shall be made at a meeting open to the public.
- All deliberations of a public body constituting a quorum of its members shall take place at a meeting open to the public, except for closed sessions.
- A person shall be permitted to address a meeting of the public body under rules established by a public body; a person shall not be excluded from a public meeting except for breach of the peace at the meeting.
- The Act does not apply to a meeting which is a social or chance gathering or conference not designed to avoid the Act.
- Notice of regular meetings shall be posted within ten days after the first meeting in each calendar or fiscal year.
- For a rescheduled regular or a special meeting, a public notice stating the date, time, and place of the meeting shall be posted at least 18 hours before the meeting in a prominent and conspicuous place at both the public body's principal office and, if the public body directly or indirectly maintains an official internet presence that includes monthly or more frequent updates of public meeting agendas or minutes, on a portion of the website that is fully accessible to the public. See Fact Sheet: OMA—Posting Requirements for more details.
- Minutes must be taken.

Excerpt: City of Milan Council Rules of Procedure

E. Video Equipment Set-Up Restricts.

Unless otherwise allowed by the presiding officer, video cameras shall be permitted in a designated area subject to the following conditions:

- The camera must be on a tripod, be set in one location and remain there. (No portable equipment moving around the room.)
- The camera must operate without additional artificial light.
- The camera must operate without additional audio. That is, no additional microphones to be set-up in the room.

F. Dismantling of Equipment During Meeting.

If an individual desires to tape only one agenda item, the presiding officer may permit the individual to tape the agenda item if the camera and/or recording equipment can be set-up and dismantled without disruption of the meeting, such as during a recess. If the equipment cannot be dismantled without disruption of the meeting, then the individual will have to wait until the conclusion of the meeting to dismantle the equipment.

Section 9. Citizens' Comments.

(a .) Chapter 6, Section 6.7 of the Westland City Charter states, "Citizens shall have a reasonable opportunity to be heard." Section 15.263(5) of the Michigan Open Meetings Act provides that persons shall be permitted to address the meeting of a public body under the rules established by the public body, and also provides that the public body may limit the right to address the public body to prescribed times.

(b .) Council hereby establishes a three (3) minute time limit for speakers under these two (2) categories:

(1) "Citizen's Questions or Input on the Agenda". This section will allow citizens to be recognized only at the beginning of the meeting to address the Council pertaining to items that are specifically on the business agenda at that meeting.

(2) "Citizen's Comments or Requests". This section will allow a citizen to be recognized at the conclusion of the Council's regular business to make general comments that mayor may not pertain to the business that was before the Council at that meeting.

(c.) Any citizen may additionally speak once at a public hearing for three (3) minutes.

(d .) The Council President shall have the authority to maintain order during the meeting.

(e .) Persons wishing to make an "announcement or special presentation" during that section of the agenda shall notify the Clerk's office by Friday at 12:00 noon before the Council meeting in which they wish to speak.

(f.) When a citizen is done addressing the Council, or when their time has been exhausted, they must immediately be seated. They may not return to the podium for any reason - unless requested to do so by the Council President or meeting chairperson.

Section 10. Suspension of Three Minute Rule.

(a .) Persons with a voted or appointed position, who are representing a subdivision, condominium, business, community or civic association during one of the above-mentioned sections and wishing to make a special presentation regarding a specific item that may take longer than the allotted three (3) minutes shall notify the City Clerk or Council President prior to the meeting. The Council President shall decide if and when the presentation will be made.

(b .) Any other citizen wishing to make a special presentation regarding a specific item that may take longer than three (3) minutes shall notify the City Clerk no later than 12:00 noon the Friday before the meeting. The Council President will

decide if the presentation will be made and at what point during the meeting it will be allowed.

Section 11. Yielding of Time Prohibited. Robert's Rules of Order does not allow a person to yield time to another person. The Westland City Council shall not allow a person to yield time to another person.

Section 12. Time Keeping.

(a .) The City Clerk and/or Secretary shall be responsible for keeping track of the Citizen's allotted time of three (3) minutes and notifying the President/Pro Tem when time has elapsed. A time clock will be kept within view of the timekeeper. The clock will start upon the first words of the speaker and will not stop while the speaker is recognized from the floor. It is the speaker's option to use up their time if they wish to have questions answered at this time. The clock will not be stopped by request once it is started. The clock will continue to run until the speaker is completed or their speaking time is exhausted.

(b .) If the President/Pro Tem announces the intention to close "Citizen's Comments and Request" and there are no requests to be recognized by the citizens, then the Chairperson shall close the Citizen's Request section of the agenda for the remainder of the meeting.

Section 13. Citizens' Comments Policies.

(a .) A public notice of sufficient size and easily readable print shall be posted on the premises during the City Council meetings and/or printed at the top of the Agenda with a brief and understandable explanation of the Council's procedures for a citizen speaking at Council meetings.

(b .) Any citizen wishing to address the Council shall provide their name and City of residence, and shall address their comments through the Chair when speaking from the podium. Only the citizen recognized by the Chair shall be allowed to speak during the "Citizen's Comments and Requests" portion of the agenda without Council and/or others commenting, unless a question is directed through the Chair, by that citizen, toward a specific Council Member, the Mayor or other City official. All City officials may elect to respond to questions directed to them through the Chair. Additionally, the Mayor (or designee in the Mayors' absence), or any Council Member may elect to respond to any comment directed toward them or another City official at any time during a meeting in order to correct an error or misstatement of fact.

(c.) If the Mayor, City Council Member or other City Official interrupts the speaker and it is not in response to a direct question, then the clock will be stopped and then re-started when the citizen is again allowed to speak.

(d .) The Chair shall call to order any person who is being disorderly by speaking when not having been recognized by the chair, or is being disruptive to the proceedings. If any person, after being called to order, continues to be disorderly and disruptive to the meeting, the Chair may order that person removed from the meeting.