



Bassett Creek Watershed Management Commission

General Provisions of Open Meeting Law

- I. What is the open meeting law and why is it important?
 - a. Section 13D of Minnesota State Law
<https://www.revisor.mn.gov/statutes/?id=13D>
 - b. Ensures that meetings of public bodies are conducted in the open where public has access to the decision making process
 - c. Prohibits actions or discussions from taking place in secret where it's impossible for the public to be fully informed about decisions or to detect improper influences
 - d. Protects government officials from accusations that business was conducted improperly

- II. What groups must abide by the open meeting law?
 - a. Best answer = all governing bodies and committees
 - b. Examples = city councils, county boards, soil and water conservation district boards, WMO boards, town boards, school boards
 - c. Also applies to committees of governing bodies

- III. When does the open meeting law apply?
 - a. Safe answer = always
 - b. Any time a quorum of the body gathers to discuss, decide, or receive information about the official business or work of the body
 - i. Quorum = minimum number of members required to be present to legally conduct business, usually a majority (five commissioners or alternates)
 - c. Even when no formal action is being taken
 - d. Does NOT apply if group is getting together socially and NOT discussing official business (but be careful - it's easy and natural to discuss official business)

- IV. What are the key requirements of the open meeting law?
 - a. Meeting notices are required for regular, special, emergency, and closed meetings
 - b. Meetings must be open to public, in a public space
 - c. Meetings must be within borders of governing body's jurisdiction
 - d. Meeting materials must be available to public at the meeting
 - e. Meeting notes including voting record must be maintained and available to the public (usually in the form of meeting minutes)

- V. How does the open meeting law address remote participation?
- a. Generally, officials cannot attend meetings by phone
 - b. Can use interactive technology (such as Zoom, Teams, etc.) if:
 - i. Proper notice was given that one or more members may participate remotely
 - ii. All officials can *see and hear* each other regardless of their location
 - iii. Members of the public at the meeting can see and hear all officials
 - iv. At least one official is at the regular meeting location
 - v. All votes are conducted by roll call; and
 - vi. Access to the stream is provided to the public, if practical
 - c. Use of interactive technology tends to disrupt the meeting and create logistical burdens
 - d. An exception to the general rules exists which allows for meetings to be conducted by telephone or through other electronic means during a health pandemic or a state or local emergency if in-person meetings are not otherwise practical or prudent (the Commission and other public bodies operated under this exception during the COVID-19 pandemic)
- VI. How is the open meeting law most often broken?
- a. Emails or text messaging among officials can be problematic
 - i. Serial emails from one official to another and another
 - ii. Using “reply all” on an email to all officials of a governing body (avoid this problem by using “blind copy” on emails to group of officials)
 - b. Failure to properly notice a meeting
 - c. Officials wanting to call into a meeting and participate by phone
 - d. Officials gathering for social functions and discussing official business (again, this tends to naturally happen)
- VII. What are the exceptions to the open meeting law?
- a. There are seven exceptions that allow a governing body to go into a closed session: (1) labor negotiations; (2) performance evaluations; (3) **attorney-client privilege**; (4) discuss the purchase or sale of property; (5) discuss security reports; (6) discuss misconduct allegations; and (7) discuss certain not-public data
 - b. Each exception above has specific rules and procedures and so before closing a meeting pursuant to an exception, the governing body should consult with legal counsel
- VIII. Violations can subject officials to litigation and personal liability, including fines, other fees and costs, and even forfeiture of office

For further reading:

Information Brief from MN House of Representatives on MN Open Meeting Law
<http://www.house.leg.state.mn.us/hrd/pubs/openmtg.pdf>

MN Statutes Chapter 13D. Open Meeting Law
<https://www.revisor.mn.gov/statutes/?id=13D>