

Dear Mr. Schneider:

In short, the Open Meetings Law applies to public bodies, and a "public body" is an entity consisting of two or more members who are either elected or appointed, most often pursuant to law, to conduct public business collectively, as a body. Examples of public bodies are city councils, town boards, village boards of trustees, planning boards, zoning boards of appeals and boards of education.

A "meeting" of a public body is a gathering of a quorum of the body for the purpose of conducting public business. A quorum is a majority of the body's total membership, notwithstanding absences or vacancies.

If a majority of a public body gathers with a developer, for example, the gathering would be a meeting subject to the Open Meetings Law that must be preceded by notice (see Open Meetings Law, section 104) and conducted open to the public, except to the extent that an executive session may properly be held (see section 105).

If there is less than a quorum of a public body, the Open Meetings Law would not apply. By means of example, if a gathering involves a municipality's department heads, the mayor, the chairs of the planning and zoning boards, and the local state senator and assemblymember, it would include a variety of government officials, but there would be no quorum of any particular public body. In that situation, the Open Meetings Law would not apply, and the public would have no right to be notified or to attend.

I hope that the foregoing serves to clarify your understanding and that I have been of assistance.

Bob Freeman

-----Original Message-----

From: Edward Schneider [mailto:EdSchneider0105@computerbroker.com]

Sent: Tuesday, September 06, 2016 9:13 AM

To: dos.sm.Coog.InetCoog

Subject: Town Meetings of Department Heads

I reviewed OML case law and did not find an answer to my question. My question is regarding the point at which Open Meetings Law (OML) requires a public body to allow the public to observe but not participate in meetings. EXAMPLE: A developer proposes a large project. Informal meetings are held with elected officials and department heads. If the project moves forward, the next step is formal meetings with the Planning Board, possibly the Zoning Board of Appeals (ZBA) and other department heads. While public hearings and town board resolutions are subject to OML, do meetings that include the Planning Board, ZBA and department heads constitute a public body that is required to inform the public of meeting dates and times so that they may attend and observe the proceedings? If not, how does OML protect the public's right to know how a town reaches the decisions it makes?

Thank you for your assistance.

Edward G. Schneider III