

Does the law say we have to have an agenda prior to public meetings? If so, how specific does it have to be? How do we handle the non-agenda items that inevitably arise?

Although there is no explicit requirement for an agenda, the implication in 1 V.S.A. § 312(d) is that there shall be an agenda, which “shall be made available to the news media or concerned persons prior to the meeting upon specific request.” “Agenda” is not defined in the statutes; therefore it is interpreted according to its ordinary meaning, which is “a list or outline of things to be done, subjects to be discussed, or business to be transacted.” *Webster’s Third New International Dictionary*.

The law also does not specify how far in advance of the meeting the agenda must be available. For a regularly scheduled meeting, it seems reasonable that it should be available soon enough to be useful to anyone who might want to attend the meeting. For special and emergency meetings, agendas should be available when actual notice is given of the meeting. “Special meetings” must have at least 24 hours notice. 1 V.S.A. § 312 (c) (2). “Emergency meetings” must be given as much notice as possible. The definition of an emergency includes such words as “unexpected,” “urgent” and “immediate.” It does not include “for the convenience of the board members.” “Emergency meetings may be held only when necessary to respond to an unforeseen occurrence or condition requiring immediate attention by the public body.” 1 V.S.A. § 312 (c) (3).

It is also important to note that there is no requirement in the Open Meeting Law that a town post the agenda or publish it. The law merely states that the agenda shall be “made available to the news media or concerned persons prior to the meeting upon specific request.” “Available” could mean that the agenda is posted at the town office or the local store. Or it could mean posting a general notice that agendas for all meetings will be available from the town clerk or the board chair or whomever. Therefore, the agenda should be kept on file by the board clerk and copies provided for those who request it.

The Vermont Supreme Court interprets the Open Meeting Law with a bias towards making information available to the public. 1 V.S.A. §§ 310 et seq. It can be inferred from the few cases that have explored the Open Meeting Law that a vague or inaccurate agenda for a public meeting would not pass muster. Likewise, a meeting that does not follow the agenda pretty closely will also violate the spirit, and likely the letter, of the law.

An agenda should give *actual* notice of the topics to be addressed. Just the topics of “Old [or New] Business” won’t do. There should be specifics such as:

- A. Discussion of contract for ambulance services.
- B. Shall the town plow the school driveway and parking lot?
- C. Discussion of the proposed speed limit ordinance.

Such topics may be discussed and acted upon at the meeting because the public has been given notice of what will be discussed and how it might affect them (in this case, either

tax dollars or speeding fines). An agenda that just says “Contracts” or “Ordinance” does not give fair warning.

Some agendas include a section for “Public Comment” or “Other Business.” Those provisions are necessary but *should be used sparingly* when people wish to introduce a non-agenda topic. They should not be used as a way to bypass the intent of the law, which is to encourage public information and involvement in government. If the topic is one that requires action or extensive discussion, it should be noted and scheduled for a later meeting – a regular or special meeting, whichever is appropriate. Engaging in extensive discussion or taking action on an important or complex non-agenda matter would probably be held to violate the Open Meeting Law. In addition, it is just plain “not fair.”

For more information on effective agendas, see “Make Your Meeting Agenda Work for You” in the *VLCT News*, April 2001.

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