

## **ARE WORK SESSIONS AND RETREATS EXEMPT FROM THE OPEN MEETING LAW?**

No. Vermont's Open Meeting Law states that "All *meetings* of a *public body* are declared to be open to the public at all times, except as provided in section 313 of this title." 1 V.S.A. § 312. (emphasis added).

A "meeting" is defined as "a gathering of a quorum of the members of a public body for the purpose of discussing the business of the public body or for the purpose of taking action." 1 V.S.A. § 310(2).

A "public body" is defined as "any board, council or commission of the state *or one or more of its political subdivisions* ... or any committee of any of the foregoing boards, councils or commissions..." 1 V.S.A. § 310(3). (emphasis added). This definition includes all municipal bodies (e.g. selectboard, appropriate municipal panel, board of civil authority, board of listers, conservation commission, committees, subcommittees, and advisory panels).

Accordingly, so long as a quorum (a majority of the total number of board members) of a municipal body is present to discuss the business of the body or to take action, its meeting must be open to the public.

There are exceptions to the Open Meeting Law. The Open Meeting Law does not "extend to the deliberations of any public body in connection with a quasi-judicial proceeding." 1 V.S.A. § 312(e). A quasi-judicial proceeding is a hearing in which the legal rights of one or more parties are adjudicated, parties have the right to present evidence and cross-examine witnesses, it results in a written decision, and it is appealable to a higher authority (such as highway reclassification, tax appeal hearings, appeals of health orders, etc.).

Nor does it extend to a meeting of a municipal body held in executive session. 1 V.S.A. § 313. Executive session is considered an extreme measure, and the Vermont Supreme Court leans heavily in favor of conducting business in the open. A municipal body – most often the local legislative body – may only enter executive session for those reasons specifically enumerated in 1 V.S.A. § 313.

Other exceptions to the Open Meeting Law include "site inspections for the purpose of assessing damage or making tax assessments or abatements, clerical work, or work assignments of staff or other personnel [and] (r)outine day-to-day administrative matters that do not require action by the public body ... provided no money is appropriated, expended, or encumbered." 1 V.S.A. § 312(g).

Neither work sessions nor retreats fall into any of these categories of limited statutory exceptions to the Open Meeting Law.

Municipal bodies may plan work retreats, but like other meetings, they must comply with all the requirements of the Open Meeting Law. If such meetings do not occur at the same time and place as other regularly scheduled meetings, they must be publicly warned as special meetings. The

time, place and purpose of special meetings must be publicly announced at least 24 hours before the meeting. The notices must be posted in or near the town clerk's office and in at least two other public places in town. Unless waived previously by the board's members, notice must also be given orally or in writing to each member of the board. 1 V.S.A. § 312(c)(2). Any editor, publisher, or news director of any newspaper or radio or television station serving the area that requests notification of special meetings must also be notified. 1 V.S.A. § 312(c)(5).

(For more information on Planning Commission Informal Work Sessions, please see the Ask the League article by Stephanie Smith, AICP.)

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