

ASK THE LEAGUE

Our five-member public body will be attending an out-of-town workshop. Can three of the members carpool together?

Yes, but only so long as they don't discuss town business or take any action. The problem with having three members of a five-member public body in a car together – or for that matter *anywhere* together (e.g., in a store, at ball field, restaurant, or dinner party, etc.) is that they constitute a “quorum” of the public body and as such trigger Vermont’s Open Meeting Law whenever town business is discussed or any action is taken. Under this law, a public body is defined as “any board, council or commission of the state or one or more of its political subdivisions, any board, council or commission of any agency, authority or instrumentality 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). And a meeting is defined as “a gathering of a quorum of a public body for the purposes of discussing the business of the public body or for the purpose of taking action.” 1 V.S.A. § 310 (2). Consequently, while a bare quorum of a public body can travel together, they should be mindful of not discussing town business or making any decisions concerning town business for fear of violating the Open Meeting Law.

One could argue that such a discussion could take place so long as the public body warns the excursion as a special meeting, however such a position is not in keeping with the spirit or letter of the law. The Vermont Supreme Court has opined that the Open Meeting Law “protects the interest of the public to hold its elected officers accountable by, among other ways, requiring meetings of a public body to be “open to the public at all times,” except when in executive session, 1 V.S.A. § 312(a), and by requiring that the public be given a “reasonable opportunity to express its opinion” on matters being considered. Id. § 312(h).” *Town of Brattleboro v. Garfield*, 180 Vt. 90 (2006). Public meetings

therefore must be open and accessible to the public in addition to being properly noticed and accommodating the taking of minutes.

Obviously, the public won't have a reasonable opportunity to express its opinion at a meeting held in a motor vehicle (unless, perhaps, the municipality is the Town of Victory and the public body is traveling via school bus with all the inhabitants of town sitting in the seats three abreast). For everyone else, though, such a “meeting-on-wheels” is out of the question and the voters might not appreciate this opportunity to discuss town business behind closed car doors.

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