

OPEN MEETINGS

The Sunshine Law - HRS Ch. 92



What is the general policy and intent of the Sunshine Law?

- Open up governmental process to public scrutiny and participation by requiring boards to conduct their business as openly as possible.
- Exceptions to Sunshine Law to be strictly construed against closed meetings.
- Absent a specific statutory exception, board business cannot be discussed in secret.

Open Meeting

What is required?

- Every meeting of the board is open to the public.
- All interested persons shall have an opportunity to submit data, views, or arguments, in writing, on any agenda item.
- All interested persons shall have the opportunity to present oral testimony on any agenda item.
- Board may make reasonable time limit of oral testimony (HRS 92-3).

What is a meeting?

- “Meeting” means the convening of a board to make or deliberate on a decision upon a matter over which the board has – or is likely to have – supervision, control, jurisdiction, or advisory power. (HRS 92-2)
- All actions of the WMCPAC must be taken by motion approved by 7 of 13 members.

Sunshine Law

- More than two members of a board can not gather to discuss board business. No serial communications.
- Board members can not discuss board business by phone, fax, email, or social media such as Facebook.
- How about social gatherings? Avoid discussing board business.
- Discuss board business with non-board members? Generally, Sunshine Law does not apply.
- Meeting may be held by telephone or videoconference (public location; private for disabled board member)



Permitted Investigative Group

- Two or more, but less than quorum (1-6 members)
 - Scope of investigation and scope of authority defined at a meeting of the board.
 - All findings and recommendations must be presented to the entire board at a meeting.
 - Deliberation and decision making can occur at a subsequent meeting.
 - This means it takes a minimum of 3 meetings for action.

Permitted Interaction:

- Presentations/Discussions

- WMCPAC may assign 1-6 members, but less than quorum, to present, discuss or negotiate any position that the WMCPAC has formally adopted at a meeting.
- Member should not “represent” the WMCPAC unless formal authority has been given at a meeting.

Permitted Interaction:

Testimony and Presentations at Cancelled Meeting

- If meeting is cancelled due to lack of quorum or technical difficulties, the members present may receive testimony and presentations.
- Members may question testifiers and presenters.
- No deliberation or decision-making.
- Record must be created and presented to absent board members at the next meeting.



Permitted Interaction:

Attendance at other meetings

- Less than quorum (up to 6) may attend informational meetings or presentations on matters relating to board business, including a meeting of another board or the County Council.
- Members may participate in discussions.
- No commitment relating to a vote on the matter may be made or sought.
- Attending members must report their attendance and the matters presented and discussed that relate to board business.

Executive Meetings

- Meeting closed to the public (HRS 92-4 and 92-5)
- If unanticipated (and not listed on the posted agenda), a vote must be taken to amend the agenda to add the executive meeting. Vote requires 2/3 affirmative vote of the members present.
- Purpose of the executive meeting should be announced in open session.
 - Example: To consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities. (HRS 92-5(a)(4))

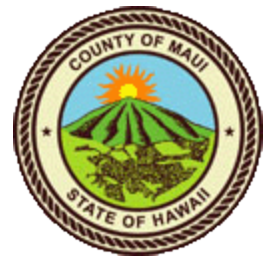


Sunshine Law Violations

- Decision may be voided (HRS 92-11)
- Injunction (HRS 92-12)
- Members may be found guilty of misdemeanor (HRS 92-13)
- Members may be removed (HRS 92-13)

Ethics

Maui County Charter Article 10, Code of Ethics



Prohibitions – Charter 10-4

- Accepting gifts or money
- Engage in any business transaction or activity or have a financial interest that:
 - Is incompatible with the proper discharge of the member's duties, or
 - May impair a member's independence of judgment in the performance of official duty
- Fail to disclose financial interest or vote on a matter affected by such interest



Conflict of Interest

WMCPAC Rule 10-103-23

- If a member has a conflict, must make a full disclosure of the conflict and refrain from participating in discussions or voting.

Members must...

- Disclose the conflict or potential conflict on the record.
 - An employer-employee relationship is a financial interest that must be disclosed – do so prior to any commission discussion.
- An employer-employee relationship with the Applicant doesn't automatically disqualify a commissioner from voting. However...

When in Doubt

- A member should:
 - Decide whether to proceed or not;
 - Abstain from voting; or
 - Request a deferral and seek an advisory opinion specifically on the specific issue from the Board of Ethics
 - If a member obtains an advisory opinion from the Board of Ethics and acts accordingly, or acts in accordance with the opinions of the board, the member shall not be held liable for violating the County Charter.

Decision Challenge & Penalties

- A complaint may be filed by someone who believes the decision a member made was affected by the member's financial relationship.
- For failure to follow the Charter's Ethics requirements, members may be:
 - Fined
 - Removed from the WMCPAC

Roberts Rules


The Basics





Motions

- Method for taking action – such as finalizing recommendations on the West Maui CP
- Made by a member, must be recognized by the Chair, should be stated with specificity,
- Must be seconded
- Chair then restates the motion, it then becomes the WMCPACs motion

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- Motion may be amended once stated
 - Must be approved by at least 7 members.



Unanimous Consent

- Action may be taken by unanimous consent
- Chair states proposed action, asks if there are any objections
- If none, action is taken
- Generally reserved for minor actions—approval of minutes or changing the order of items on the agenda



Chairperson

- Presiding officer, makes determinations on parliamentary issues
- Generally does not engage in debate
- Maintains order