

NMSA 1978
§§10-15-1 TO 10-15-4

AND

§§14-2-1 TO 14-2-12

NEW MEXICO OPEN MEETINGS ACT & INSPECTION OF PUBLIC RECORDS ACT

KNOWN AS THE “SUNSHINE LAWS”

- All persons are entitled to the greatest possible information regarding the affairs of government and the official acts of those who represent them.
- The formation of public policy or the conduct of business by vote shall not be conducted in closed meetings.
- All meetings of a quorum of members of any board or commission, held for the purpose of formulating public policy, discussing public business, or taking any action within the authority of the commission are declared to be public meetings open to the public at all times, except as otherwise provided by law. See §10-15-1(B)
- Under IPRA, the law requires open access to almost all public records in state and local government, with few exceptions.

OMA - REQUIREMENTS FOR A PUBLIC MEETING

Quorum

- A majority of the appointed members (three of five for BPU)

Notice

- No less than ten (10) days before meeting (per LAC Resolution 24-01)
- Adoption of Calendar

Agenda

- Available at least seventy-two (72) hours prior to meeting
- Must identify the business to be discussed or transacted

Minutes

- Must include the date, time and place of the meeting, the names of members in attendance and those absent, the substance of the proposals considered and a record of any decisions and votes taken that show how each member voted.
- All minutes are open to public inspection.
- Draft minutes shall be prepared within ten working days after the meeting and shall be approved, amended or disapproved at the next meeting where a quorum is present.



PUBLIC MEETING & PUBLIC BUSINESS

WHAT IS A “PUBLIC MEETING”?

WHEN IS BPU CONDUCTING “PUBLIC BUSINESS”?

WHAT IS AN “OPEN MEETING” ?

“**All meetings of a quorum of members of any board, commission, administrative adjudicatory body or other policymaking body of any state agency or any agency or authority of any county, municipality, district or political subdivision**, held for the purpose of **formulating public policy**, including the development of personnel policy, rules, regulations or ordinances, **discussing public business** or taking any action within the authority of or the delegated authority of any board, commission or other policymaking body **are declared to be public meetings open to the public at all times**, except as otherwise provided in the constitution of New Mexico or the Open Meetings Act [Chapter 10, Article 15 NMSA 1978]. ...”

NMSA 1978, Section 10-15-1.B.

WHAT IS PUBLIC BUSINESS ?

“**All meetings of a quorum of members** of any board, commission, administrative adjudicatory body or other policymaking body of any state agency or any agency or authority of any county, municipality, district or political subdivision, **held for the purpose of formulating public policy, including the development of personnel policy, rules, regulations or ordinances, discussing public business or taking any action within the authority of or the delegated authority of any board, commission or other policymaking body** are declared to be public meetings open to the public at all times, except as otherwise provided in the constitution of New Mexico or the Open Meetings Act [Chapter 10, Article 15 NMSA 1978]. . . .”

NMSA 1978, Section 10-15-1.B.

QUORUM

WHAT CONSTITUTES A QUORUM OF THE BPU?

THREE MEMBERS SHALL CONSTITUTE A QUORUM FOR THE BUSINESS OF THE BOARD.

BPU ACTIONS MAY BE TAKEN AND CONSIDERED VALID ONLY IF A QUORUM HAS BEEN ESTABLISHED AT THE MEETING.

THE BOARD SHALL MEET AT LEAST ONCE A MONTH.

THE MEETINGS AND RECORDS SHALL BE PUBLIC.

BOARD OF PUBLIC UTILITIES POWERS AND DUTIES

Chapter 40 UTILITIES

ARTICLE II Administration

Power and duties, shall include: Jurisdiction and control over the utility systems owned by the county.

Section 40-45 The board of public utilities shall propose the public policy of the department and those other policies unique to each utility system. Policies shall be adopted by the board at public hearings and shall become effective upon approval by the council.

The BPU will be appointed by the council. The ideal representation will include residents from a diversity of geographical areas. The total number of members will equal five (5) persons.

OMA - “ROLLING” OR “WALKING” QUORUMS PROHIBITED

- A quorum may exist, for purposes of the Act, even when members are not physically present together at the same time and place.



- **Example:** 3 members of a 5-member Board discussing public business in a series of telephone or email conversations. Such discussion is a meeting of a quorum. The use of a rolling quorum to discuss public business or take action is a violation of the Act because it constitutes a meeting of a quorum of the Board outside a properly noticed public meeting.





NOTICE

WHAT IS THE REQUIRED NOTICE FOR MEETINGS OF THE BPU?

COUNTY NOTICE REQUIREMENTS FOR OPEN MEETINGS

- **OMA** - “Any meetings at which the **discussion or adoption** of any proposed resolution, rule, regulation or formal action occurs and at which a majority or quorum of the body is in attendance, and any closed meetings, shall be held only after reasonable notice to the public. **The affected body shall determine at least annually in a public meeting what notice for a public meeting is reasonable when applied to that body.** That notice shall include broadcast stations licensed by the federal communications commission and newspapers of general circulation that have provided a written request for such notice.” NMSA 1978, § 10-15-1(D)(2024).
- **BPU Meetings:** The BPU meets at least monthly. All meetings of the BPU are subject to and will **comply with the New Mexico Open Meetings Act**, NMSA 1978, Section 10-15-1 to 10-15- 4, and will adhere to the requirements outlined in the County's Resolution adopted annually pursuant to Section 10-15-1(D) of the New Mexico Open Meetings Act.”
- Current County Resolution is **Resolution No. 24-01**



AGENDA

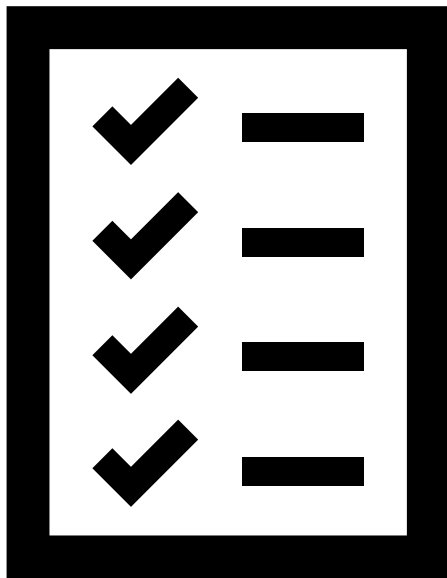
THERE MUST BE A PUBLISHED AGENDA FOR ALL BPU MEETINGS

WHAT IS REQUIRED FOR A MEETING AGENDA?

“Meeting notices shall include an agenda containing a list of specific items of business to be discussed or transacted at the meeting or information on how the public may obtain a copy of such an agenda. Except in the case of an emergency or in the case of a public body that ordinarily meets more frequently than once per week, at least seventy-two hours prior to the meeting, the agenda shall be available to the public and posted on the public body’s web site, if one is maintained. A public body that ordinarily meets more frequently than once per week shall post a draft agenda at least seventy-two hours prior to the meeting and a final agenda at least thirty-six hours prior to the meeting. Except for emergency matters, a public body shall take action only on items appearing on the agenda.”

NMSA 1978, Section 10-15-1 (F) (2024)

OMA - MEETING MUST FOLLOW THE PUBLISHED AGENDA



- Only items or topics listed on the published agenda, may be discussed by the BPU

AGENDA FORMAT

- LOS ALAMOS COUNTY
BOARDS AND
COMMISSIONS
PROCEDURAL RULES
(rev. 2019)
- Covers all Boards &
Commissions
- General Format

Exhibit A:



LOS ALAMOS

Sample Agenda
Name of B&C

Location of Meeting
Date and time of Meeting

- I. CALL TO ORDER/ROLL CALL
- II. PUBLIC COMMENT (Can be limited to ____ minutes per person)
- III. PUBLIC HEARINGS
(if applicable)
- III. B&C BUSINESS
 - A. Approval of B&C Minutes
 - B. Chairman's report
 - C. (List other topics)
- IV. B&C/ STAFF COMMUNICATIONS
 - A. Action Items
(List individual items)
 - B. Staff Reports

POSTING OF AGENDAS

- “Agendas for all board or commission meetings will be posted in accordance with the Council’s annual Open Meetings Resolution.” *LAC Boards & Commission Procedural Rules*.
- **Resolution 24-01. Section V. A.** - For regular and special meetings – Notice shall be posted in “conspicuous place in the vicinity of the **front door of the Municipal Building** located at 1000 Central Avenue, Los Alamos, New Mexico and visible from the exterior of the building, as well as being **posted on the County’s web site** provided the web site is operational. Copies of the notice shall be provided to those broadcast stations licensed by the Federal Communications Commission **and newspapers of general circulation** which have made a written request for notice of public meetings for the coming calendar year. Only one such written request shall be required for each calendar year.”
- **Charter 909. - Definition: Publish and Publication—Defined.** “Except as otherwise provided in this Charter, the term "publish" or "publication" shall have the meaning as prescribed in state law for legal notices **and shall also include posting at the Municipal Building, the public library and its branches, and such other places as may be designated by ordinance.**”



MEETING MINUTES

WHEN, WHO, AND CONTENT

MEETING MINUTES

“The board, commission or other policymaking body shall keep **written minutes of all its meetings.** The minutes shall **include at a minimum**

- the date,**
- time and place of the meeting,**
- the names of members in attendance and those absent,**
- the substance of the proposals considered**
- and a record of any decisions and votes taken that show how each member voted.**

All minutes are open to public inspection. Draft minutes shall be **prepared within ten working days** after the meeting and shall be **approved, amended or disapproved at the next meeting where a quorum is present.** Minutes shall not become official until approved by the policymaking body.”

NMSA 1978, § 10-15-1(G)(2024)

FAILURE TO COMPLY WITH OMA -INVALID ACTIONS AND PENALTY

No action of a board shall be valid unless taken or made at a meeting held in accordance with the requirements of the OMA.

It is the members of the board that are responsible for compliance with the OMA, not the County as an entity.

Any person violating any of the provisions of the OMA is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than five hundred dollars (\$500) for each offense

IPRA – INSPECTION OF PUBLIC RECORDS



- Every person has a right to inspect public records of this state except as specifically limited by law.
- All persons are entitled to the greatest possible information regarding the affairs of government and the official acts of public officers and employees.
- “Public Records” means **all** documents, papers, letters, books, maps, tapes, photographs, recordings and other materials, regardless of physical form or characteristics, that are used, created, received, maintained or held by or on behalf of any public body and **relate to public business**, whether or not the records are required by law to be created or maintained;

GETTING MORE INFORMATION...

- You can obtain more information at:
 - New Mexico Attorney General's Office- <https://nmdoj.gov/inspection-of-public-records-act/>
 - County Attorney's Office