

Effective Lakes Meetings

McNALMS

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Agenda

- Effective boards
- Meeting details
- Michigan Open Meetings Act

The Board's Role

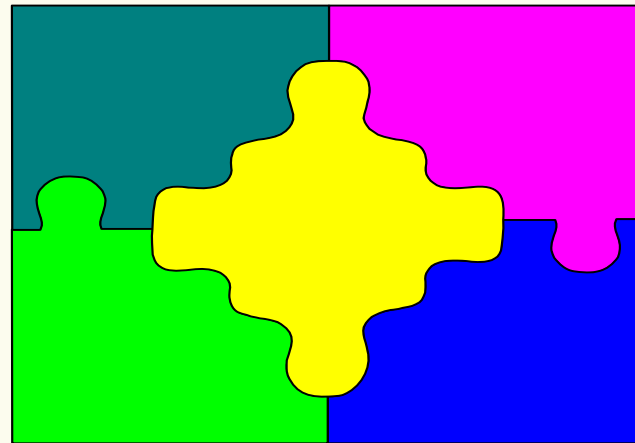
- Governance
- Vision
- Set Policy that gives Direction
- Oversight
- Mission
- Strategic Planning

HOW??

- Keep your eyes on the Big Picture
- Look Ahead, as far down the road as possible
- Be Proactive, make your own detour
- Build Consensus
- Act Collectively, not as Individuals
- Use your Diversity to your Advantage

Leadership is an Art

- Consensus is founded on the belief that everyone holds a portion of the solution and that no one person holds the entire answer.



Consensus

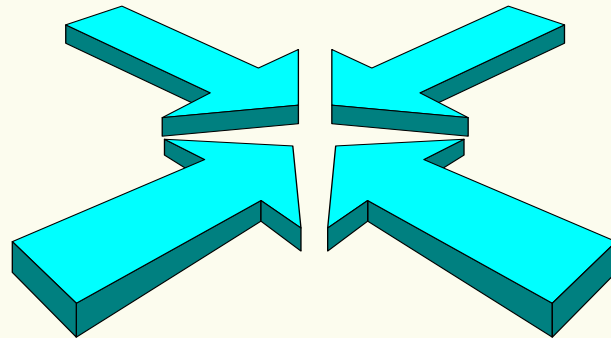
- A process, “how” agreement is reached.
- Actions have consequences, different for different people.
- Discuss anticipated consequences.
- Identify actions that best serve the interests of all involved

For Consensus to Work

- Trust
- Commitment
- Opportunity
- Openness
- Willingness
- Effort
- Patience
- Focus on interests
- Avoid taking positions

Remember that the board's job is comprised of many verbal tasks.

- The board does not literally build, heal or perform, but rather **discuss**, **clarify** and **articulate** the vision, mission, values and outcomes on behalf of the citizens.

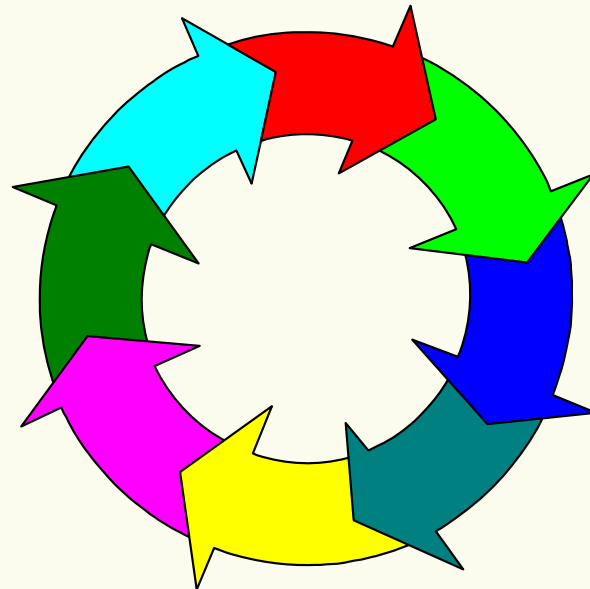


Become a Communication Expert

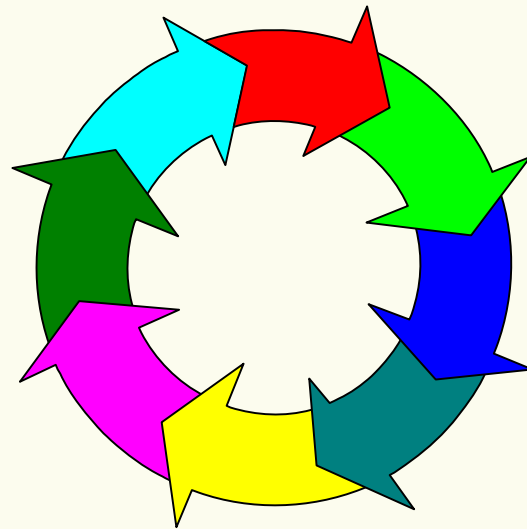


- Practice active listening. Listening is a commitment and a compliment.
- Monitor and adjust non-verbal feedback.
- Respect and validate other's feelings.
- Use humor cautiously.

Your goal is to have your
Board, who are a set of
individuals, operate as one
unit.



Your second goal is to have
your Board function
cooperatively and effectively
with others.



Trust

- “Trust is the highest form of human motivation.” Stephen R. Covey
- Brings out the best in people
- Takes time and patience to develop
- “a state involving confident positive expectations about another’s motives with respect to oneself in situations entailing risk” Boon and Holmes

Building Trust

- Requires:
 - Open and honest communication
 - Sharing of information and power
 - Commitment to facing and working through conflict
 - Consistent follow-through
 - Coordinated, competent action

- “When leaders are learning and growing, everything about them communicates the same opportunity to other people. People get excited. They do things differently. One of the most profound and unusual experiences people can have is to see their leader grow!”

D. K. Smith

- “We must be the change we wish to see in the world”

M. Gandhi

One more example

- Even the most well meaning and careful people still make mistakes
- Forgive them and move forward together

Your Experience

- Good meetings
- Bad meetings

Types of Meetings

- Level of formality varies
 - Style of leadership
 - Makeup of the group
- Purpose of rules is not to enslave us, rather to enable us to:
 - Get things accomplished
 - Maintain reasonable working relationships
 - Would you play basketball without rules?

Meeting Preparation

- Meeting needs a clear purpose
 - Creation of agenda will help identify purpose
- Keep agenda manageable
 - Use committees wisely
 - Use staff wisely - Policy v. Administration
 - Consent agenda
 - Don't procrastinate w/o good reason

Meeting Preparation

- Send agenda in advance with info participants need. Informed participants are ready to discuss options and take action.
- Give some thought to the obvious:
 - Room size & arrangement
 - Building location, parking, and accessibility
 - Heat, light, and sound amplification

Participants

- Need to:
 - Get the job done
 - Build and maintain working relationships for the future
- Five characteristics of good participants
 - Maintain high level of credibility
 - Covey - Trustworthiness is central
 - Aristotle - Intelligence, character, goodwill

Participants

- Be open minded
 - Doesn't mean no convictions
 - Seek all facts
 - Be willing to listen and consider other viewpoints
 - A few small changes may yield a much better solution
 - Look for good ideas, regardless of the source

Participants

- Be a good listener
 - Seems easy, so we often don't train for it, or practice it
 - Listen even to those who don't agree with you
 - Ralph Nichols, Univ. of Minnesota
 - Judge content, not delivery
 - Work on listening, not just hearing
 - Avoid distractions
 - Keep an open mind

Participants

- Be well informed
 - Requires time and energy
 - Yields better decisions
- Be willing to state your beliefs clearly and concisely
 - Active participation is important
 - Time to speak, time to listen
 - Use simple straightforward speech

Leadership

- Be a good participant! Set the example
- Build the team
 - Identify the group as “we”
 - Build group traditions
 - Group goals which are clear and achievable
 - Rewards for teamwork, for the whole group
 - Remember these are people, not machines

People Problems

- Provide recognition and fulfilling roles to participants to minimize problems before they start
- When problems occur
 - Understand the cause of the behavior
 - Focus on what the person is trying to contribute
 - Thank them for their input, then ask another to participate

People Problems

- When problems occur
 - Be objective and fair
 - Be positive and supportive of the individual's rights to express themselves
 - Stay calm!!

People Problems

- The 2x4 approach may solve the short term problem, but usually causes more problems later
- Recognize that problems didn't occur overnight, won't likely be solved overnight
- Building people usually requires working on the margins

Henry Clay

"Government is a trust, and the officers of the government are trustees; and both the trust and the trustees are created for the benefit of the people."

Thomas Jefferson

Declaration of Independence

"Governments are instituted among men,
deriving their just powers from the consent
of the governed."

Abraham Lincoln 1861

"Let the people know the facts, and the country will be safe."

John F. Kennedy

"We are not afraid to entrust the American people with unpleasant facts, foreign ideas, alien philosophies, and competitive values. For a nation that is afraid to let its people judge the truth and falsehood in an open market is a nation that is afraid of its people."

Richard Nixon 1972

"When information which properly belongs to the public is systematically withheld by those in power, the people soon become ignorant of their own affairs, distrustful of those who manage them, and - eventually - incapable of determining their own destinies."

Sandra Day O'Connor

“ A fundamental premise of American democratic theory is that government exists to serve the people. . . . Public records are one portal through which the people observe their government, ensuring its accountability, integrity, and equity while minimizing sovereign mischief and malfeasance”

Patrick Henry

“The liberties of a people never were, nor ever will be, secure, when the transactions of their rulers may be concealed from them.”

Steve Martin

“A day without sunshine is like, you know, night.”

James Madison 1788

"A popular Government without popular information or the means of acquiring it, is but a Prologue to a Farce or a Tragedy or perhaps both. Knowledge will forever govern ignorance, and a people who mean to be their own Governors, must arm themselves with the power knowledge gives."

John Milton

Areopagitica 1644

“And though all the winds of doctrine were let loose to play upon the earth, so Truth be in the field, we do injuriously by licensing and prohibiting to misdoubt her strength. Let her and Falsehood grapple; who ever knew Truth put to the worse in a free and open encounter?”

Open Meetings Act

Michigan State University
Extension

State & Local Government
Area of Expertise Team

Open Meetings Act

- Spirit of the Act dates back to the 1850 Michigan Constitution
 - County Board “shall sit with open doors”
- For government to be “of the people, by the people, and for the people”, it must be open to the people.

Open Meetings Act

- PA 267 of 1976 (MCLA 15.261-15.275)
- Watergate era, to some extent in response to lack of trust of government at that time
- Courts tend to interpret in favor of openness

Open Meetings Act

- **THE GENERAL RULE:** Any person has a right to attend a *meeting of any public body* at any time unless the meeting is declared to fall under one of ten statutory exceptions.

Open Meetings Act

Section 1 - Title “Open Meetings Act”

- Supercedes local provisions
- Local unit can adopt greater degree of openness

Section 2 - Definitions

Open Meetings Act

Section 3 - General provisions

- Public has right to tape record, broadcast, etc. without prior approval of public body
 - Public body may establish reasonable rules to minimize disruption of meeting
- Cannot require registration as condition of attendance
- Public has right to address public body
 - Public body may establish rules governing public comment
 - Rules must be written so that everyone is given a right to speak

Open Meetings Act

- Can only remove someone for breach of peace committed at the meeting
- Specific exemptions to OMA listed
 - Social or chance gatherings not designed to subvert OMA
 - Conferences
 - Committee adopting nonpolicy resolution “of tribute or memorial”
 - Many other specific bodies exempted
 - Ex: MI Public Service Commission

Open Meetings Act

Section 3:

“(1) All meetings of a **public body** shall be open to the public...”

“(2) All **decisions** of a public body shall be made at a meeting open to the public...”

“(3) All **deliberations** of a public body constituting a **quorum** of its members shall take place at a meeting open to the public...”

Open Meetings Act

Meeting – quorum convened for the purpose of deliberating toward, or rendering a decision on a public policy

Public body – a body “empowered by state constitution, statute, charter, ordinance, resolution, or rule to exercise ... governmental authority...”

Decision – “determination, action, vote or disposition...on which a vote by members of a public body is required, and by which a public body effectuates or formulates public policy.”

Open Meetings Act

- General rule & definitions have been subject to much interpretation through court cases, AG opinions
- Courts, AG opinions have always interpreted OMA in favor of openness

Open Meetings Act

Can an individual be a “public body”?

1. *Delegating* authority for decision-making, deliberations to less than a quorum of a public body, or a single member of a public body, does not avoid mandates of OMA (*Booth Newspapers v. University of Michigan Board of Regents* , 507 NW2d 422 (1993))
2. However, if power for deliberations, decisionmaking are *vested* in another individual (say, city manager) by charter then that individual is not “public body” for purposes of OMA (*Herald Company v. City of Bay City*, 463 Mich. 111 (2000))

Open Meetings Act

What is a “decision”?

1. Where a committee/subcommittee is empowered to act on matters in such a fashion as to deprive the full body of the opportunity to vote on the matter, the committee is exercising governmental authority that effectuates public policy, and therefore, is making a “decision”.
(OAG 7000)

Open Meetings Act

- Example: Subcommittee considers four options, dismisses two and presents two to the board for consideration.
- *The act of excluding two options deprives full body of acting on those options.*
- Therefore, meeting of the committee is subject to OMA.

Open Meetings Act

When is something less than a quorum treated like a quorum?

- Follows from previous two points:
 - If a subcommittee (or individual) ...
 - is *delegated* the ability...
 - to make “*decisions*”,
 - then the subcommittee (or individual) ...
 - is a *quorum* ...
 - Of a “*public body*”
 - subject to OMA.

Open Meetings Act

Section 4 - Public Notice Locations, Content

- Name of public body, address and phone
- Posted at principal office & other locations considered appropriate
 - If no principal office, then county clerk's office
- Notice must be accessible (OAG 5724)

Open Meetings Act

Section 5 - Public notice

- Post annual calendar within 10 days after first meeting
- Changes to calendar posted within 3 days of meeting at which change is made
- Rescheduled-posted 18 hours before meeting
- Meeting recessed more than 36 hours requires new notice

Open Meetings Act

Section 5 - continued

- Emergency provision - “severe and imminent threat to health, safety, or welfare of the public” 2/3 vote of board may vote that “delay would be detrimental” and proceed without normal notice
- Limitations on use of residential dwellings for meetings

Open Meetings Act

Section 6 - Copies of notice

- Individuals and organizations may request in writing and pay for copies of notices to be mailed to them
- Newspapers, radio, and TV get copies free

Open Meetings Act

Section 7 - Closed sessions

- Provisions for closed meetings under 10 circumstances (6 relevant to local government) (Burden of proof on unit)
- Closed session must be called by roll call vote of those elected and serving
- Roll call and purpose of meeting must go into the minutes of the open session
- Can only *deliberate* in closed session.
Decisions must be rendered in open session.

Open Meetings Act

Section 8 - Purposes for closed sessions

1. Personnel matters, if requested by the individual. Individual may rescind request at any time
2. Collective bargaining negotiations, if requested by either party
3. Purchase or lease of real estate up until the time an option to purchase or lease is obtained (requires 2/3 vote to go into closed session)

Open Meetings Act

Section 8 - Cont.

4. Attorney consultation on specific pending litigation, only if an open meeting would have a detrimental effect on settlement (requires 2/3 vote)
5. Review of applications for employment or appointment to public office if candidate requests confidentiality. Interviews by public body must be open meeting.

Open Meetings Act

Section 8 - Cont.

6. Consideration of material exempt from discussion or disclosure by state or federal statute (requires 2/3 vote)
 - Example: materials exempt under FOIA
 - Others specifically found throughout state law

Open Meetings Act

Section 9 - Minutes of all meetings

- Must contain:
 - Date, time, place, members present & absent
 - “any decisions made at a meeting open to the public”
 - Any roll call votes taken
- *Note that “speechifying” & general discussion need not be included*
- Must be available within 8 business days of meeting
- Corrections must be made at next meeting; corrected minutes must show both original entry and correction
- Open to public inspection and copies available at reasonable cost

Open Meetings Act

Section 7 – Closed meeting minutes

- Separate minutes taken of the closed session
 - Kept by clerk
 - Not available to public
 - May be destroyed 1 year and 1 day after approval of minutes of regular meeting at which session was approved, unless the subject of current litigation

Open Meetings Act

Approval of closed meeting minutes

- May meet in closed session to approve closed session minutes. (OAG 6365)
- Note: approval of minutes is not a “decision” by definition of OMA.
 - Decision is measure on which a vote is required **and** “by which a public body effectuates or formulates public policy.”

Open Meetings Act

Disclosure of closed meeting minutes

- Disclosed if required by court order
- Clerk may provide copies to members of public body (OAG 7061)
- Unauthorized disclosure by clerk, or members of public body punishable by civil or criminal action (Sections 11 - 13)

Open Meetings Act

Disclosure of closed meeting minutes, cont.

- If individual requested closed meeting, the individual may not subsequently request that minutes of closed meeting be opened to the public (OAG 6353)

Open Meetings Act

Section 10 - Legal recourse

- Any person may commence civil action to challenge validity of decision
- Court may overturn decision under certain conditions
- Challenged decisions may be reenacted in compliance with law and then are valid

Open Meetings Act

Section 11 - Injunctive relief

- Any person may file for injunctive relief to compel compliance, if they win, get costs paid

Sections 12 & 13 - Penalties, fines and jail

Section 14 - Repeal of 1968 related statute

Section 15 - Effective date, January 1, 1977

OMA in a nutshell

Spirit of the Act is to make
government open and
accessible to the people

OMA in a nutshell

- Any person has a right to attend a *meeting of any public body* at any time unless the meeting is declared to fall under one of the statutory exceptions.
- Public must be notified
- Minutes must be taken and made available
- Violations can result in actions voided; civil and/or criminal sanctions

OMA - Resources

VerBurg, “Michigan Open Meetings Act,”
MSU Extension (2000).

Michigan Municipal League, “Closed
Meeting Minutes,” One-Pager Plus (1999)

Attorney General Opinions (OAG)

Michigan Appellate courts cases (Supreme
Court & Court of Appeals)

OMA - Resources

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