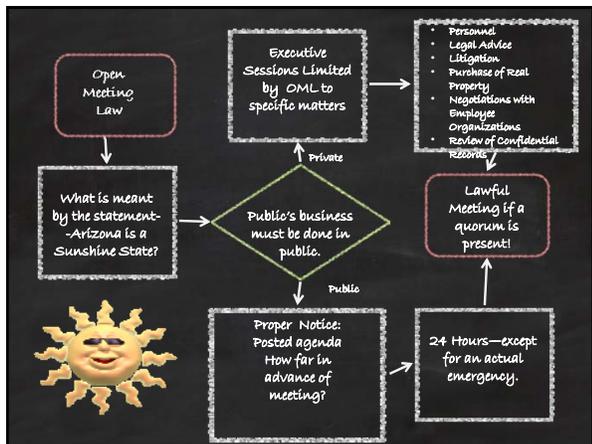


Part I.

Open Meeting Law



What actually is a meeting?

A meeting occurs ANY TIME a quorum of the public body discusses, proposes, or takes legal action.

Traditional Meetings

Electronic Meetings



Pitfall #1
Serial Meetings

What is a serial meeting?

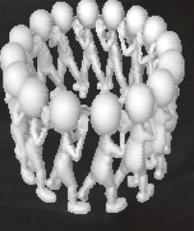
Less than a quorum present or participating

Later, the same discussion is had with other members of the public body?

Enough to constitute a quorum?

You may have just had a "Serial Meeting"

- Remember: A series of gatherings of less than a quorum MAY constitute a meeting if Town business is discussed or proposed.



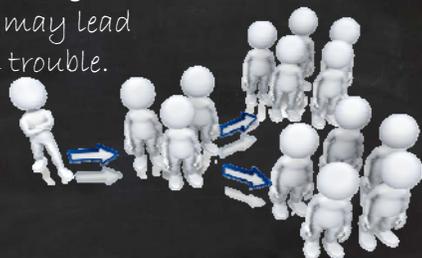
Idea seems simple, but technology complicates things...



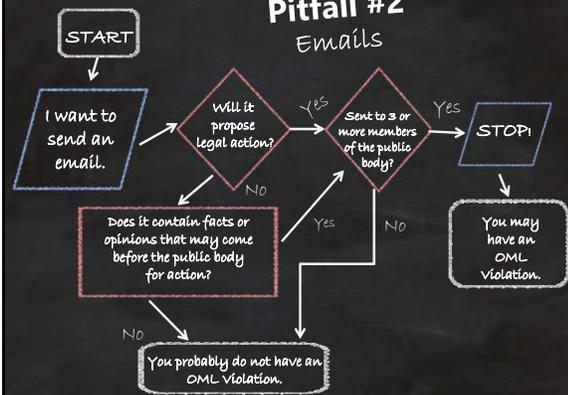
"That was a conference call, dummy! — You just declared war on everybody!"

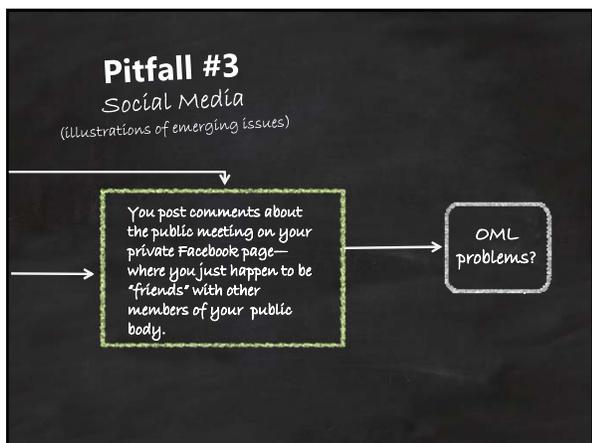
Lesson: Be careful responding to emails.

- using "Reply All" & Forwarding Emails may lead to OML trouble.



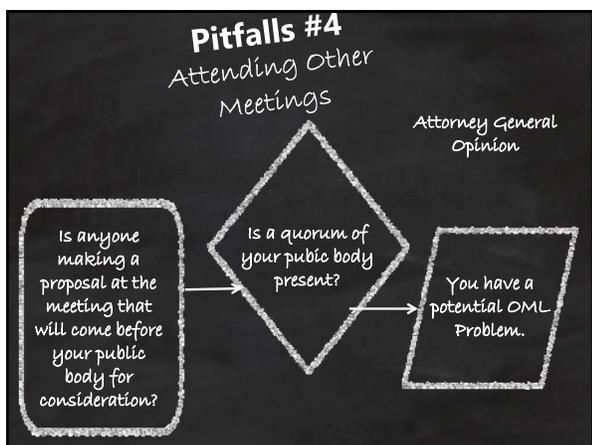
Pitfall #2 Emails





Not necessarily. Under A.R.S. § 38-431.09, you may express your opinion or discuss an issue with the public personally, through the media, or through technological means, IF...

- (1) the opinion or discussion is not principally directed at or directly given to another member of the public body §
- (2) there is no concerted plan to engage in collective deliberation to take legal action.



Options?

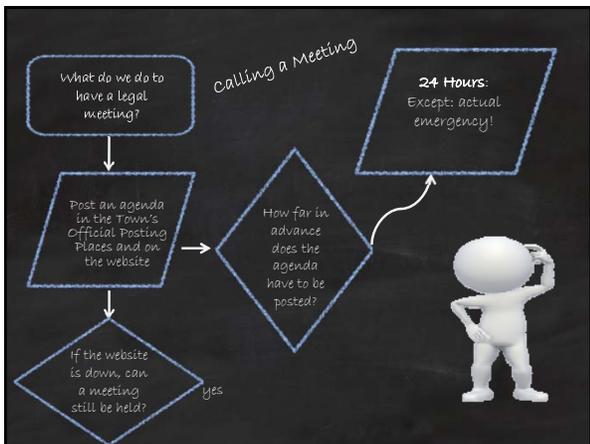
- ✓ Don't attend other public meetings;
- ✓ Don't make proposals at other public meetings; or
- ✓ Notice the meeting as if it's your own.



Take away?:

Be mindful of informal discussions with other members of your public body. Text messages, emails, and comments made at other public meetings may be a "serial meeting." But merely reading a media comment from another member is not a meeting.



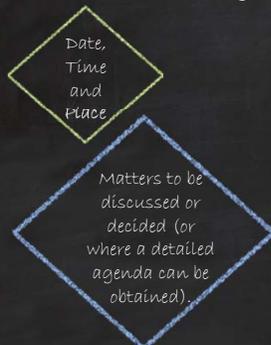



Actual Emergency Exception (applicable in very limited circumstances).



In Sum: unless a flood or fire is racing through the Town, you probably do NOT have an actual emergency.

What must be included on an agenda?



- Agenda Options**
- Call to the Public:**
- Citizens MAY only address the public body on issues within their jurisdiction.
 - Public body MAY NOT discuss the matter.
 - At conclusion, members MAY respond to criticism, ask staff to review a matter, or request a future agenda item.
- Other Communications:**
- Report On Current Events from chair, members, and staff person in charge.
 - NO DISCUSSION!

Can we discuss matters not on the agenda?



Multiple Choice

- A. No.
- B. Seriously, No.
- C. Not if we don't want trouble.
- D. Maybe, if it's an Actual Emergency.
- E. All of the above.

Minutes are the official record and must include:

Date, time and place

Members present or absent

DRAFT MINUTES must be available within THREE working days.

Description of matters discussed & all legal actions proposed, discussed or taken, including members who propose each motion

Names of persons making statements or presenting to the public body

Violations



ACTIONS taken are NULL and VOID.

The Attorney General INVESTIGATES.

Violations

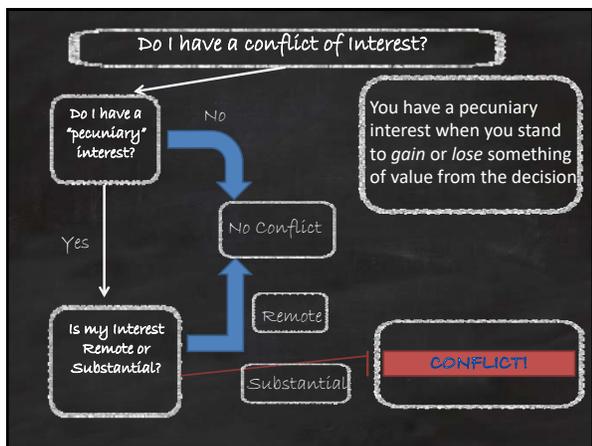
PENALTIES...

- ✓ \$500/day civil penalty
- ✓ REMOVAL of an officer
- ✓ Assess the officer with ALL COSTS awarded to the plaintiff
- ✓ MAY NOT spend public monies for legal counsel



Part II.

CONFLICT OF INTEREST



What Is A Substantial Interest?

One that is not Remote, of course.

What Is a Remote Interest?

- (a) That of a remunerated officer of a nonprofit corporation.
- (b) That of a landlord or tenant of a contracting party.
- (c) That of an attorney of a contracting party.
- (d) That of a member of a nonprofit cooperative marketing association.
- (e) The ownership of less than three percent of the shares of a corporation for profit, provided the total annual income from dividends, including the value of stock dividends, from the corporation does not exceed five percent of the total annual income of such officer or employee and any other payments made to him by the corporation do not exceed five percent of his total annual income.
- (f) That of a public officer or employee in being reimbursed for his actual and necessary expenses incurred in the performance of official duty.
- (g) That of a recipient of public services generally provided by the incorporated city or town, political subdivision or state department, commission, agency, body or board of which he is a public officer or employee, on the same terms and conditions as if he were not an officer or employee.
- (h) That of a public school board member when the relative involved is not a dependent, as defined in section 42-1001, or a spouse.
- (i) That of a public officer or employee, or that of a relative of a public officer or employee, unless the contract or decision involved would confer a direct economic benefit or detriment on the officer, the employee or his relative, of any of the following:
 - (1) Another political subdivision.
 - (2) A public agency of another political subdivision.
 - (3) A public agency except if it is the same governmental entity.
- (j) That of a member of a trade, business, occupation, profession or class of persons consisting of at least ten members which is no greater than the interest of the other members of that trade, business, occupation, profession or class of persons.
- (k) That of a relative who is an employee of any business entity or governmental entity that employs at least twenty-five employees within this state and who, in the capacity as an employee, does not assert control or decision-making authority over the entity's management or budget decisions.
- (l) The ownership of any publicly traded investments that are held in an account or fund, including a mutual fund, that is managed by one or more qualified investment professionals who are not employed or controlled by the officer or employee and that the officer or employee owns shares or interest together with other investors.

What do I do if I have a substantial interest?

DO NOT take part in the discussion or action.

MAKE THE INTEREST KNOWN in public records

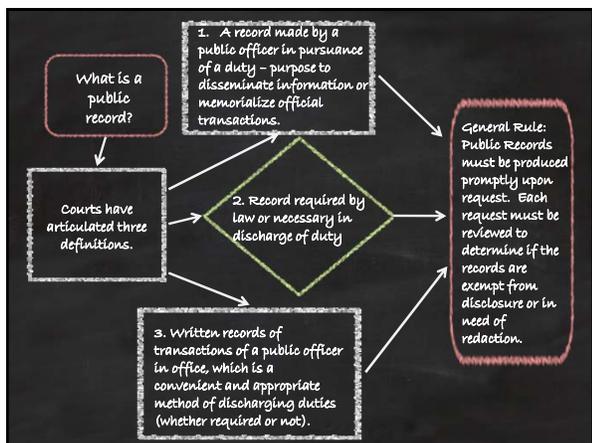
Complete a PUBLIC OFFICER DISCLOSURE form

What happens if I violate the conflict of interest laws?

- CIVIL SUIT to enforce the law
- Court MAY award reasonable attorney's fees
- Class VI Felony for INTENTIONALLY or KNOWINGLY violating the law
- Class I Misdemeanor for RECKLESSLY or NEGLIGENTLY violating the law
- Person found guilty might be required to FORFEIT his PUBLIC OFFICE

Part III.

PUBLIC RECORDS

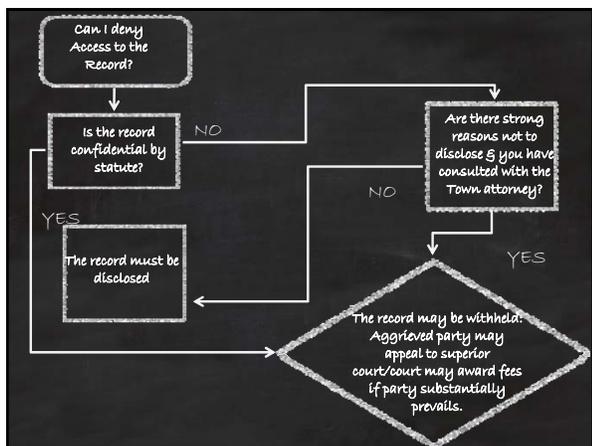


E-MAIL?

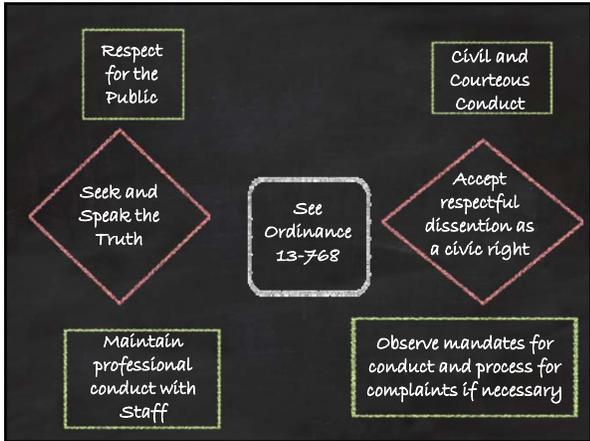
- Rule: E-mails received or sent by you are public records if they relate to your duties as a member of a public body (Council, Board, Commission, Committee).
- In general: Assume your e-mails are public records, even if they are prepared on your personal computer. See Attorney General Opinion.
- Still, a document which is WHOLLY PERSONAL in nature is not a public record. See *Griffis v. Pinal County, et al.*

Personal Email Accounts: Tips

- Best Practice: Do not use your personal email for Town business. If you need to use your personal email, always send a copy to your Town email address and/or to the Town Clerk. Doing this will enable the Town to capture those emails for public record purposes.
- When the Town receives a request for public records that involves email, the Town Clerk will inform you if the request appears to include emails to and from you or your public body.
- If there are Town emails in your personal email account, you will need to work with the Town Clerk's Office/IT staff to determine how to properly search and produce the records.



Part IV.
CODE OF ETHICS



Chino Valley's Form of Government

Council-Manager

- Clear delineation between policy and administration.
 - Elected Council makes policy decisions about budget, taxes, Town functions, etc. Council serves as link between citizens and government.
 - Manager manages day-to-day operations, hiring, firing, and implementation of policy directives.
- Similar to Board/Chairman/CEO

A.R.S. § 9-303

- B. The city or town manager shall have and exercise the powers and perform the duties relating to the affairs of the city or town as shall be specified by the ordinance creating the office of city or town manager.



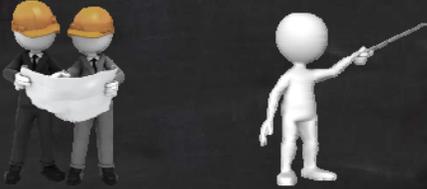
CHINO VALLEY TOWN CODE § 31.20
AND CODE OF ETHICS (§ 35.04):

- Councilmembers shall deal with Town employees solely through manager.
- Councilmembers shall not give orders directly to or discuss job performance of any employee.
- Councilmembers may communicate with Town employees only for the purpose of inquiry.

SO WHY DOES THIS MATTER?

COUNCILMEMBER/STAFF
DISCUSSIONS.

- How you see it.
- How staff sees it!



REMEMBER:

- A Councilmember is one of seven and can not act alone to direct Town business.
- Employees are anxious to help and not likely to tell a Councilmember no.
- Inquiries may be viewed as direction.
- Other Councilmembers, i.e., a majority may not be in agreement.

Questions ? ? ?