

# The Public Record

VOLUME 2, ISSUE 2

APRIL 2009

## POINTS OF INTEREST

- For upcoming training opportunities visit our website at [www.azoca.gov](http://www.azoca.gov) and click on presentations.
- For the last four newsletters, visit our website and click on newsletters/reports. Older newsletters are available upon request.
- Open Meeting Law Booklets and Public Records Law Booklets are available online. Updates are available under Recent Developments.

## INSIDE THIS ISSUE:

Requests for Public Records 1

“All in Favor, Say Aye...” 1

Meeting Minutes 101: What happens after the meeting? 2-3

Attention Special Districts: New Retention Schedules 2

2009 Legislative Update 2

## Requests for Public Records

People request public records in a variety of formats. Some make requests in person, others submit them via mail or e-mail, or by fax, or even over the telephone. These are all permissible. Contrary to popular belief, Arizona does not require written public record requests. The law simply says that any person may request to examine or be furnished copies of any public records during regular office hours. Therefore, all public bodies are encouraged to develop policies to handle requests made in writing, by telephone and by electronic means. A few things to consider might include: who will track the requests? Who will assure that the request is processed? Who will respond? If records are available, who will make sure they are retrieved and provided promptly?

Although public bodies may not require that a request be put into writing, we certainly recognize the benefits of written requests and advise requesters that putting a request in writing can

help facilitate a response and improve the accuracy of the response.

Moreover, requesters should not be required to identify themselves. Government offices may develop forms to be submitted in writing or filled out over the telephone, but forms should not force requesters to identify themselves or explain why they want to examine or copy public records other than to determine if the record will be used for a commercial or non-commercial purpose. Public officials and employees should also not require requesters to supply any additional personal information, unless it is needed to mail the records or to comply with laws limiting access to certain records.

**Arizona does not require written public record requests.**



## “All in Favor, Say Aye...”

All persons must be permitted to attend and listen to the deliberations and proceedings of public bodies. Moreover, under Arizona law, all legal action of public

bodies must occur during a public meeting. Accordingly, public bodies should conduct votes in a manner that informs the pub-

lic and holds officials accountable. Following are a couple tips to assure the public is properly informed:

- Never use secret ballots.



The vote of each member must be cast in public.

This is true even when the vote constitutes the final action on a matter considered in closed session.

- Be careful about using voice

votes. For instance, “all in favor say aye, all opposed say nay.” Voice votes may be difficult to decipher and may be perceived as a political cover. When in doubt, take a roll call vote.

Although Arizona does not require that the public body identify the name of each person who votes on a motion, persons attending the meeting must be able to see and hear all votes taken.



“Meeting minutes are required for all public meetings and executive sessions.”



*There are two new General Retention Schedules for all Special Districts.*



## Meeting Minutes 101: What happens after the meeting?

Meeting minutes are required for all public meetings and executive sessions. Accurate minutes are a key tool for conducting the public's business in an open and accountable fashion. They are also a vital organizational tool for all public bodies. Minutes may be taken in writing or may be recorded. However, beware that if a public body is required to maintain minutes permanently, they must comply with the requirements set forth under A.R.S. § 39-101 for permanent records.

Public meeting minutes must also be available for public inspection within three working days after the meeting, regardless of approval. The minutes of an executive session are confidential and may only be disclosed to certain persons. They include:

1. Members of the public body (Board members have access to all executive session meeting minutes, even if they did not attend the meeting.),
2. Any officer, appointee, or employee who was the subject

of discussion at an executive session for personnel matters. Upon request the officer, appointee, or employee must be provided access to the portions of the minutes directly pertaining to them,

3. Staff personnel, to the extent necessary to prepare and maintain the minutes,
4. The attorney for the public body, to the extent necessary for the attorney to represent the public body,
5. The Auditor General in con-

## Attention Special Districts: New Retention Schedules

By Jerry Kirkpatrick, Records Management Specialist, Arizona State Library, Archives, Public Records

The Arizona State Library, Archives and Public Records (ASLAPR) is charged with preserving the historical public records of our State. It has recently developed two new General Retention Schedules for all Special Districts in the State. These general schedules provide direction and guidance on how long public records must be retained by the Districts. Impacted Special Districts include:

Flood Districts, Hospital Districts, Irrigation Districts, Library Districts, Lighting Districts, Stadium Districts, Taxing Districts, Utility Districts, Water Districts, etc. The new schedules may be found at: [http://www.lib.az.us/records/schedules\\_and\\_manuals.cfm](http://www.lib.az.us/records/schedules_and_manuals.cfm).

ASLAPR is also beginning the process of revising all of its Model Retention Schedules, most of which date from 2001.

This will be a lengthy process, but they already have two draft schedules under review for Municipalities—Fire Departments and Elections. The draft schedule for Equipment/Vehicle Services will be released in several weeks.

For more information, or questions, please contact Jerry Kirkpatrick at 602-392-3820 or [jkirkpatrick@lib.az.us](mailto:jkirkpatrick@lib.az.us).

## 2009 Legislative Update

There are currently several bills pending at the Legislature that directly affect Arizona's Public Records Law (Title 39) and Open Meeting Law (Title 38). They are as follow:

SB 1303: Clarifies a few open meeting law statutes including where charter schools file disclosure statements, how long internet postings must remain

on the internet, and computation of the 24 hour notice requirement.

SB 1304: Clarifies copying fees.  
SB 1305: Amends ARS § 39-121.01 to address access to electronic records.

SB 1248: Would make metadata a public record subject to public inspection.

HB 2328: Permits redaction of personal information from e-mail.

HB 1237: Gives persons that request access thirty days to inspect, retrieve, or pay for the records. Failure to do so becomes a defense to any subsequent action.

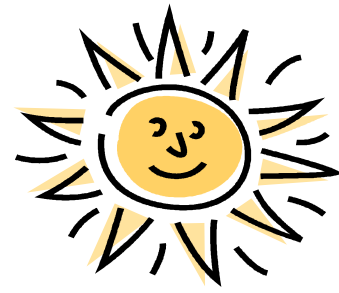
For a full text of the bills go to <http://azleg.gov/>



## Arizona Ombudsman- Citizens' Aide

3737 N. 7th Street  
Suite 209  
Phoenix, AZ 85014

Phone: 602-277-7292  
Phone: 800-872-2879  
Fax: 602-277-7312  
E-mail:



Happy spring! For many of us, spring symbolizes a fresh start to the year. As we ride on the coattails of "Sunshine Week," it is also the perfect time to reflect on transparency and accessibility to government. For those of you not familiar with Sunshine week, it is a week each March that emphasizes the importance of a transparent government and the dangers of excessive and unnecessary secrecy. There is no better time to evaluate policies, processes, and procedures to assure compliance with Arizona's public record and open meeting laws.

If you have any questions regarding Arizona's "Sunshine Laws," please feel free to contact Liz Hill directly at 602-285-9136 x32.

# Meeting Minutes 101

nection with an audit,

6. The Attorney General, County Attorney, and Arizona Ombudsman when investigating alleged violations of the Open Meeting Law, and

7. The court, for purposes of a confidential inspection.

Although verbatim minutes are not required, minutes are required to contain certain information. The minutes of a public meeting must include:

1. The date, time, and place of the meeting,
2. The members of the public body recorded as either present or absent (indicate if a member appeared telephonically),
3. A general description of the matters considered,
4. An accurate description of all legal actions proposed, discussed or taken, and the names of members who propose each motion, and

5. The names of the persons, as given, making statements or presenting material to the public body and a reference to the legal action about which they made statements or presented material.

The minutes of executive sessions must include:

1. The date, time, and place of the meeting,
2. The members of the public body recorded as either present or absent (indicate if a member appeared telephonically),
3. A general description of the matters considered,
4. An accurate description of all instructions given to the public body's attorneys or designated representatives as permitted under A.R.S. §§ 38-431.03(A)(4),(5), and (7), and
5. Other matters deemed appropriate.

Public bodies, except for subcommittees and advisory committees, of a city or

town with websites and a population of more than 2,500 must also:

1. Post on its website a statement describing legal actions taken or any recording of the meeting within three working days after the meeting.
2. Post approved meeting minutes on the website within two working days following approval.

Subcommittees and advisory committees of cities and towns with a website and population of more than 2,500 must post either a statement describing any legal action taken or a recording of the meeting within ten working days after the meeting.

It is also important to remember that from a record management standpoint, meeting minutes should include a copy of the agenda as well as any supporting documentation referenced in the minutes. In addition, recordings must be maintained for three months. For more info go to [http://www.lib.az.us/records/schedules\\_and\\_manuals.cfm](http://www.lib.az.us/records/schedules_and_manuals.cfm)