

## The Charter of the City of Colorado Springs

Adopted May 11, 1909 with all amendments to April 7, 2015.

### APPENDIX

#### PART 4. OPEN MEETINGS LAW

**24-6-401. Declaration of Policy.** It is declared to be a matter of statewide concern and the policy of this state that the formation of public policy is public business and may not be conducted in secret.

**Source:** Entire section amended, L. 91, p. 815, § 1, effective June 1.

**Law reviews.** For article, "Home Rule Municipalities and Colorado's Open Records and Meetings Laws", see 18 Colo. Law. 1125 (1989).

#### **24-6-402. Meetings--Open to Public.**

(1) For the purposes of this section:

(a) "Local public body" means any board, committee, commission, authority, or other advisory, policy-making, rule-making, or formally constituted body of any political subdivision of the state and any public or private entity to which a political subdivision, or an official thereof, has delegated a governmental decision-making function but does not include persons on the administrative staff of the local public body.

(b) "Meetings" means any kind of gathering, convened to discuss public business, in person, by telephone, or by other means of communication.

(c) "Political subdivision of the state" includes, but is not limited to, any county, city, city and county, town, home rule city, home rule county, home rule city and county, school district, special district, local improvement district, special improvement district, or service district.

(d) "State public body" means any board, committee, commission, or other advisory, policy-making, rule-making, decision-making, or formally constituted body of any state agency, state authority, or the general assembly, the governing board of any state institution of higher education including the regents of the University of Colorado, and any public or private entity to which the state, or an official thereof, has delegated a governmental decision-making function but does not include persons on the administrative staff of the state public body.

(2)(a) All meetings of two or more members of any state public body at which any public business is discussed or at which any formal action may be taken are declared to be public meetings open to the public at all times.

(b) All meetings of a quorum or three or more members of any local public body, whichever is fewer, at which any public business is discussed or at which any formal action may be taken are declared to be public meetings open to the public at all times.

(c) Any meetings at which the adoption of any proposed policy, position, resolution, rule, regulation, or formal action occurs or at which a majority or quorum of the body is in attendance, or is expected to be in attendance, shall be held only after full and timely notice to the public. In addition to any other means of full and timely notice, a local public body shall be deemed to have given full and timely notice if the notice of the meeting is posted in a designated public place with the boundaries of the local public body no less than twenty-four hours prior to the holding of the meeting. The public place or places for posting such notice shall be designated annually at the local public body's first regular meeting of each calendar year. The posting shall include specific agenda information where possible.

(d)(l) Minutes of any meeting of a state public body shall be taken and promptly recorded, and such records shall be

open to public inspection. The minutes of a meeting during which an executive session authorized under subsection (3) of this section is held shall reflect the general topic of the discussion at the executive session.

(II) Minutes of any meeting of a local public body at which the adoption of any proposed policy, position, resolution, rule, regulation, or formal action occurs or could occur shall be taken and promptly recorded, and such records shall be open to public inspection. The minutes of a meeting during which an executive session authorized under subsection (4) of this section is held shall reflect the general topic of the discussion at the executive session.

(e) This part 4 does not apply to any chance meeting or social gathering at which discussion of public business is not the central purpose.

(f) The provisions of paragraph (c) of this subsection (2) shall not be construed to apply to the day-to-day oversight of property or supervision of employees by county commissioners. Except as set forth in this paragraph (f), the provisions of this paragraph (f) shall not be interpreted to alter any requirements of paragraph (c) of this subsection (2).

(3)(a) The members of a state public body subject to this part 4, upon affirmative vote of two-thirds of the entire membership of the body, may hold an executive session only at a regular or special meeting and for the sole purpose of considering any of the matters enumerated in paragraph (b) of this subsection (3) or the following matters; except that no adoption of any proposed policy, position, resolution, rule, regulation, or formal action shall occur at any executive session which is not open to the public:

(I) The purchase of property for public purposes, or the sale of property at competitive bidding, if premature disclosure of information would give an unfair competitive or bargaining advantage to a person whose personal, private interest is adverse to the general public interest. No member of the state public body shall use this paragraph (a) as a subterfuge for providing covert information to prospective buyers or sellers. Governing boards of state institutions of higher education including the regents of the University of Colorado may also consider the acquisition of property as a gift in an executive session, only if such executive session is requested by the donor.

(II) Conferences with an attorney for the state public body concerning disputes involving the public body that are the subject of pending or imminent court action. Governing boards of state institutions of higher education including the regents of the University of Colorado may also confer with an attorney concerning specific claims or grievances or for purposes of receiving legal advice on specific legal questions. Mere presence or participation of an attorney at an executive session of a governing board of a state institution of higher education including the regents of the University of Colorado is not sufficient to satisfy the requirements of this subsection (3).

(III) Matters required to be kept confidential by federal law or rules or state statutes;

(IV) Specialized details of security arrangements where disclosure of the matters discussed might reveal information that could be used for the purpose of committing, or avoiding prosecution for, a violation of the law;

(V) Determining positions relative to matters that may be subject to negotiations with employees or employee organizations; developing strategy for and receiving reports on the progress of negotiations; and instructing negotiators;

(VI) With respect to the Board of Regents of the University of Colorado and the Board of Directors of the University of Colorado Hospital Authority created pursuant to article 21 of title 23, C.R.S., matters concerning the modification, initiation, or cessation of patient care programs at the university hospital operated by the University of Colorado Hospital Authority pursuant to part 5 of article 21 of title 23, C.R.S., (including the University of Colorado Psychiatric Hospital), and receiving reports with regard to any of the above, if premature disclosure of information would give an unfair competitive or bargaining advantage to any person or entity.

(b) All meetings held by members of a state public body subject to this part 4 to consider the appointment or employment of a public official or employee or the dismissal, discipline, promotion, demotion, or compensation of, or the investigation of charges or complaints against, a public official or employee shall be open to the public unless said applicant, official, or employee requests an executive session. Governing boards of institutions of higher education including the regents of the University of Colorado may, upon their own affirmative vote, hold executive sessions to consider the matters listed in this paragraph (b). Executive sessions may be held to review

administrative actions regarding investigation of charges or complaints and attendant investigative reports against students where public disclosure could adversely affect the person or persons involved, unless the students have specifically consented to or requested the disclosure of such matters. An executive session may be held only at a regular or special meeting of the state public body and only upon the affirmative vote of two-thirds of the entire membership of the body.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this subsection (3), the State Board of Parole created in part 2 of article 2 of title 17, C.R.S., may proceed in executive session to consider matters connected with any parole proceedings under the jurisdiction of said board; except that no final parole decisions shall be made by said board while in executive session. Such executive session may be held only at a regular or special meeting of the State Board of Parole and only upon the affirmative vote of two-thirds of the membership of the board present at such meeting.

(4) The members of a local public body subject to this part 4, upon the affirmative vote of two-thirds of the quorum present, may hold an executive session only at a regular or special meeting and for the sole purpose of considering any of the following matters; except that no adoption of any proposed policy, position, resolution, rule, regulation, or formal action shall occur at any executive session which is not open to the public:

(a) The purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest; except that no executive session shall be held for the purpose of concealing the fact that a member of the local public body has a personal interest in such purchase, acquisition, lease, transfer, or sale;

(b) Conferences with an attorney for the local public body for the purposes of receiving legal advice on specific legal questions. Mere presence or participation of an attorney at an executive session of the local public body is not sufficient to satisfy the requirements of this subsection (4);

(c) Matters required to be kept confidential by federal or state law or rules and regulations;

(d) Specialized details of security arrangements or investigations;

(e) Determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators;

(f) Personnel matters except if the employee who is the subject of the session has requested an open meeting, or if the personnel matter involves more than one employee, all of the employees have requested an open meeting. With respect to hearings held pursuant to the "Teacher Employment, Compensation, and Dismissal Act of 1990", article 63 of title 22, C.R.S., the provisions of section 22-63-302 (7) (a), C.R.S., shall govern in lieu of the provisions of this subsection (4).

(g) Consideration of any documents protected by the mandatory nondisclosure provisions of part 2 of article 72 of title 24, commonly known as the "Open Records Act";

(h) Discussion of individual students where public disclosure would adversely affect the person or persons involved.

(5) Prior to the time the members of public body convene in executive session, the chairman of the body shall announce the general topic of the executive session as enumerated in subsections (3) and (4) of this section.

(6) The limitations imposed by subsections (3), (4), and (5) of this section do not apply to matters which are covered by section 14 of article V of the state constitution.

(7) The secretary or clerk of each state public body shall maintain a list of persons who request notification of all meetings or of meetings when certain specified policies will be discussed and shall provide reasonable advance notification of such meetings.

(8) No resolution, rule, regulation, ordinance, or formal action of a state or local public body shall be valid unless taken or made at a meeting that meets the requirements of subsection (2) of this section.

(9) The courts of record of this state shall have jurisdiction to issue injunctions to enforce the purposes of this section upon application by any citizen of this state. In any action in which the court finds a violation of this section, the court

shall award the citizen prevailing in such action costs and reasonable attorney fees. In the event the court does not find a violation of this section, it shall award costs and reasonable attorney fees to the prevailing party if the court finds that the action was frivolous, vexatious, or groundless.

(10) Any provision of this section declared to be unconstitutional or otherwise invalid shall not impair the remaining provisions of this section, and, to this end, the provisions of this section are declared to be severable.

**Source:** (2.3)(f) amended, L. 89, p. 1004, § 4, effective October 1; entire section amended, L. 91, p. 815, § 2, effective June 1; (3)(a)(VI) amended, L. 91, p. 586, § 6, effective October 1; (2)(f) added, L. 92, p. 972, § 1, effective April 23.

#### FOOTNOTE REFERENCE

22. The "Open Meetings Law" in effect at the time of the April 1993 General Municipal Election was derived from Colorado Senate Bill 91-33 (effective date 6/1/91), Colorado Senate Bill 91-225 (effective date 6/1/91) and Colorado House Bill 92-1167 (effective date 4/23/92). The complete text of these three bills are contained in Bradford Publishing Company's, 1992 Cumulative Supplement, Volume 10A, 1988 Replacement Volume to the Colorado Revised Statutes.