



TO: Municipal Clerks

FROM: AJ Forte, Executive Director Municipal League

DATE: October 3, 2023

RE: Open Meetings Act Question

As the Municipal League continues to receive questions regarding whether the minutes of an open meeting need to be posted on a local public body's website, the League offers the following advice.

The relevant section of the law is Section 10-15-1.G NMSA 1978:

“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.” [emphasis added]

It is noteworthy that this part of the statute is silent as to a local public body posting the recorded minutes on the local public body's website. Because of this, there is no requirement that minutes be posted on a local public body's website. It *is* a requirement that all minutes be open to public inspection. (Both under this statute as well as under the Inspection of Public Records Act, Section 14-2-1 through 14-2-12 NMSA 1978.) What constitutes “open to public inspection” under this portion of the statute is left to the local public body's discretion.

It is also noteworthy that this differs from the statute's requirements regarding the posting of agendas. That requirement is set forth in Section 10-15-1.F NMSA 1978 and says, in pertinent part to this discussion: “the agenda shall be available to the public ***and posted on the public body's website, if one is maintained.***” [emphasis added]

The fact that the Legislature saw fit to explicitly call for the posting of an ***agenda*** on a local public body's website while not using the same language in regard to minutes further buttresses the point that there is no requirement that minutes, whether official or draft, be posted on a local public body's website.

That said, the entire goal of the Open Meetings Act is transparency and transparency is best served by making the minutes as easily obtainable to the public as the agendas would be. It is therefore advisable, in the opinion of the League, to post minutes on a local public body's website where one is maintained so long as those minutes conform with the strictures of the statute (that is, they contain everything required by the statute, they are clearly labelled as "draft" or "official" depending on what versions they may be, and so on).

If there should be any change in the law in this area, the League will be sure to update this memorandum.