

SAMPLE COUNTY BOARD MEETING POLICY -- COMMISSIONER

Instructions: In the following sample board meeting policy, statutory requirements are designated with a check mark and identified by section number. Because counties are already obligated to abide by statutory requirements, these statements are primarily for information and need not be specifically adopted. Some non-statutory optional and sample policy statements contain blanks which may be filled in with one or more of the sample requirements shown in italics or other language as appropriate. Others are grouped and labeled as sample options to indicate possible selections from within that group. Others are complete statements that may be adopted in their entirety. *Policies may be adopted in whole or part as suits the needs of the county.* You are encouraged to discuss these issues with your county attorney prior to adopting an overall policy to govern county board meetings.

GENERAL POLICY

- ✓ It is the general policy of this board that every meeting shall be open to the public in order that citizens may exercise their democratic privilege of attending and speaking at meetings of public bodies. (§84-1408)

EXAMPLE: ➤ The _____ County Board adopts the following general policy guidelines in accordance with the Open Meetings Act as outlined in Nebraska Revised Statutes Sections 84-1407 to 84-1414 and other county statutes as cited. Any inconsistencies or questions regarding this policy shall be resolved in favor of the statutory provisions.

NOTICE OF MEETING

- ✓ The county board will give reasonable advance publicized notice of the time and place of each meeting by a method designated by the board and recorded in its minutes. (§84-1411(1))

EXAMPLE: ➤ The board will publish notice of meetings ____ (e.g. at least two working days prior to the meeting, or by 9 a.m. the working day prior to the meeting) ____ in the ____ (Countyseat Journal or other designated county newspaper and any other designated radio, television, website or other electronic media) ____ of the time and place of the meeting.

- ✓ Notice of the meeting shall be transmitted to all members of the board and to the public. Such notice shall contain a statement of the agenda of subjects known at the time of the publicized notice or a statement that the agenda shall be readily available for public inspection, along with all attachments, at the principal office of the county board during normal business hours. (§84-1411(1))
- ✓ The board secretary or other designee of the county board shall maintain a list of news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed at that meeting. (§84-1411(4))
- ✓ The county clerk may call a special meeting of the board of commissioners when the interest of the county requires it by posting notice in three public places in the county or by publication in a county newspaper. Five days notice of the time and object of the meeting must be given. (§23-154)

AGENDA

- ✓ The county board shall make available at the meeting, for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at the open board meeting. (§84-1412(8))

EXAMPLE: ➤ The county clerk, as board secretary, shall maintain the agenda for the county board meetings. Advance public notice of all regular and special meeting dates and times shall be determined by the board. Notice of each meeting shall be publicized according to statute.

EXAMPLE: ➤ Submission of potential agenda items may be made:

Sample Options: (select one) (1) By the public to the county clerk in writing during posted business hours only until 10:00 a.m. two working days prior to the meeting. Agenda items submitted by the public will be included on the agenda but discussion of these items is at the board's discretion.

(2) To any board member, who will consider the inclusion of the item on the final agenda, until 10:00 a.m. two working days prior to the meeting. Individuals requesting that the county clerk include an agenda item will be referred to a county board member for approval. The county clerk may not accept agenda items without approval of at least one board member.

(3) At a regular or special board meeting only for an upcoming meeting.

EXAMPLE: ➤ Requests for items to be placed on the agenda shall be described clearly and explicitly, i.e. discussion of, resolution for, open or award bids, approval of, and whether official action is necessary.

- ✓ Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting. (§84-1411(1))

- ✓ The agenda shall not be altered later than twenty-four hours before the scheduled commencement of the meeting, except for items of an emergency nature. The county board shall have the right to modify the agenda to include items of an emergency nature only at such public meeting. (§84-1411(1))

EXAMPLE: ➤ A tentative agenda shall be published (e.g., at noon the Friday, or by 10:00 a.m. Monday) prior to the next board meeting. Distribution of the tentative agenda to the public at this time shall be at the discretion of the board chair and/or the county clerk. The agenda will be posted at the (e.g., county clerk's office, and/or county sheriff's office, and/or county board meeting room) .

EXAMPLE: ➤ Commissioner's packets shall be prepared and available for distribution to board members the (e.g., Friday afternoon, or Monday morning) prior to the next scheduled meeting. All materials received by (e.g., noon the Friday) prior to the meeting will be distributed in the board members' packets. Materials received after the packets have been distributed to the board members will be available prior to the meeting.

EXAMPLE: ➤ The clerk may request ___(adequate numbers, e.g., at least one copy for the clerk and each board member)___ of ALL materials relating to agenda items. One copy shall remain at the county clerk's office for record retention.

EXAMPLE: ➤ The agenda may also be made available on a recorded phone message.

EXAMPLE: ➤ Any changes in the agenda prior to ___(the closing deadline, e.g. the statutory 24 hour period set in §84-1411(1) or earlier deadline set by the board)___ shall be noted and the revised agenda shall be prepared in a manner to indicate revisions ___(e.g., on colored paper, or with revisions in bold-face type)___ and made available to all affected parties in a timely fashion.

EXAMPLE: ➤ The board may approve items of a routine nature through a consent agenda. Consent items are selected by the ___(e.g., county clerk, or county board, or chair)___ and may include such regular agenda items such as ___(fee reports, or treasurer's receipts and order files)___. Prior to the approval of the minutes, the chair shall read the consent agenda items into the record and ask for a motion to approve the consent agenda. If a board member requests that an item be withdrawn from the consent agenda, the item shall be heard separately as scheduled on the regular agenda. The motion to approve the consent agenda shall include amendments requested by board members to withdraw specific items from the consent agenda.

- ✓ No public body shall require that the name of any member of the public be placed on the agenda in order to speak about items on the agenda. (§84-1412(1))

MEETINGS

- ✓ The public shall have the right to attend and the right to speak at meetings of the county board, and all or any part of a meeting of a county board, except for closed sessions, may be videotaped, televised, photographed, broadcast, or recorded by any person in attendance by means of a tape recorder, camera, video equipment, or any other means of pictorial or sonic reproduction or in writing. (§84-1412(1))
- ✓ At least one current copy of the Open Meetings Act shall be posted in the meeting room at a location accessible to members of the public. At the beginning of the meeting, the public shall be informed about the location of the posted information. (§84-1412(8))
- ✓ The county board may make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting, or recording its meetings. (§84-1412(2))

EXAMPLE: ➤ Stationary video cameras must be placed in the back or sides of the meeting room so as not to interfere with the participation of meeting attendees.

EXAMPLE: ➤ Media representatives and persons otherwise electronically recording the meeting may be allowed in the meeting room one half hour prior to the meeting time to set up equipment.

EXAMPLE: ➤ If the meeting is being recorded or televised at the board's request, the board shall announce that fact at the beginning of the meeting.

✓ A county board may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings. (§84-1412(2))

✓ A county board shall not require members of the public to identify themselves as a condition for admission to the meeting. The board may require any member of the public desiring to address the body to identify himself or herself. (§84-1412(3))

EXAMPLE: ➤ Persons wishing to make public comment shall sign in with his or her name and address and identify his or her position on the issue prior to any testimony.

EXAMPLE: ➤ Time limits on testimony given before to the board:

Sample Options: (select one) (1) Shall be at the discretion of the board chairman but shall not exceed (10 minutes per individual) per agenda item. Proponents and opponents shall receive equal time on each issue.

(2) An extension of time on a particular issue may be granted by a majority vote of the board.

(3) No person may speak a second time on any issue until all persons wishing to speak have done so.

EXAMPLE: ➤ Testimony shall be heard in the following order: all proponents, all opponents, all neutral (information only).

EXAMPLE: ➤ Vendors or marketing representatives will be assigned to the appropriate committee of the board. A committee recommendation is encouraged prior to direct appearance before the board.

EXAMPLE: ➤ Individuals may speak on items not on the agenda at the discretion of the chair. Absent a statutory "emergency", the speaker shall be informed that no action can be taken until the item is placed on the agenda at a later date.

EXAMPLE: ➤ The board shall make available the following items for public inspection at each meeting: county board meeting policies; Robert's Rules of Order.

✓ When only two of the commissioners are present at the meeting and are divided on a question, the decision shall be deferred until the next meeting when the matter shall be decided by a majority of the board. (§23-155)

EXAMPLE: ➤ The chair may vote on any issue and may be appointed to any committee.

DECORUM

EXAMPLE: ➤ Speakers should confine their remarks to the question before the board.

EXAMPLE: ➤ During debate and while the chair is speaking or the board is engaged in voting, the public shall not disturb the board by whispering or being disruptive or distracting.

EXAMPLE: ➤ When the disorder is so great that business cannot be transacted and the chair cannot enforce order, the chair may adjourn the assembly as a last resort.

VIDEO CONFERENCING

- ✓ Video conferencing through the use of audio-visual equipment at two or more locations shall not be used to circumvent any of the public government purposes of the open meetings laws. (§84-1411(2) and 84-1409(3))
- ✓ A county board may allow a member of the public or any other witness other than a member of the board to appear before the public body by means of video or telecommunications equipment. (§84-1411(6))

ACCOMMODATIONS

- ✓ The county board may not hold a meeting in a place known by the board to be too small to accommodate the anticipated audience for purposes of circumventing the open meetings laws. The county board may, however, hold its meeting in its traditional meeting place which is located within the state. (§84-1412(4)),(5)
- ✓ The board shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at the meeting. (§84-1412(7))

EMERGENCY MEETING

- ✓ When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by means of electronic or telecommunication equipment. The secretary or other designee of each public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advanced notification of them of the time and place when conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day. (§84-1411(4) and § 84-1411(5))

EXAMPLE: ➤ The Nebraska Attorney General has defined an emergency as one that requires immediate resolution by the public body, and one which has arisen in circumstances impossible to anticipate at a time sufficient to place on the agenda of a regular, called, or special meeting of the body. (AGO 1975-76, No. 116 at 150) In *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W. 2d 499 (Neb. App.Ct. 2009), the Court of Appeals focused on whether there was anything in the record indicating than a particular item required immediate action or involved pressing necessity.

COMMITTEES/DUTIES

- ✓ The board shall elect a chair at its regular meeting in January. (§23-156)

EXAMPLE: ➤ The duties of the chair include, but are not limited to the following: to open the session at the required time by taking the chair and calling the board to order; to announce business before the board in the order it must be addressed; to state and put to a vote all motions; to announce the result of a vote on motions; to restrain members engaged in debate within the rules of order; to enforce order and decorum; to authenticate by his or her signature, when necessary, all of the acts, orders and proceedings of the board; and to represent and stand for the board in general.

EXAMPLE: ➤ The (e.g., board, or chair) shall appoint committees, boards and commissions.

EXAMPLE: ➤ The first person named to a committee is the committee chair, although the committee may elect another chair if they so choose. The clerk shall advise the committee chair of the names of the other members of the committee, the matter referred to the committee, and any instructions from the board. The chair of the county board may serve as a member or chair of a committee.

EXAMPLE: ➤ County board members who are members of regional, state or national committees or boards relating to their county responsibilities shall make oral reports to the board no less frequently than (e.g., quarterly) of the activities of that board or committee.

CLOSED SESSION

- ✓ The board may hold a closed session by an affirmative vote of a majority of the voting members if it is clearly necessary to 1) protect the public interest or 2) for the prevention of needless injury to the reputation of an individual and if that individual has not requested a public meeting. A closed meeting may not be held for discussion of the appointment or election of a new member to any public body. If the reason for the meeting falls within 1) or 2), a closed session may be held for, but shall not be limited to, such reasons as:

- a. Strategy sessions with respect to collective bargaining, real estate purchases, or litigation which is imminent;
- b. Discussion regarding deployment of security personnel or devices;
- c. Investigative proceedings regarding allegations of criminal misconduct;
- d. Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if that person has not requested a public meeting; or
- e. For public hospitals, governing board peer review activities, professional review activities, review and discussion of medical staff investigations or disciplinary actions, and any strategy session concerning transactional negotiations with any referral source that is required by federal law to be conducted at arms length. (§84-1410(1))

- ✓ The vote to hold a closed session shall be taken in open session based on a motion to close the meeting to the public, with a majority vote of the board approving the motion. The subject matter and the reason necessitating the closed session shall be identified in the motion to close. The

entire motion, the vote of each member on the question of holding a closed session, and the time when the closed session commenced and concluded shall be recorded in the minutes. If the motion to close passes, the chair shall immediately prior to the session restate on the record the limitation of the subject matter of the closed session.

- ✓ The board shall restrict its consideration to only those purposes set forth in the motion to close as the reason for the closed session. The meeting shall reconvene in open session before any formal action may be taken. Formal action includes a collective decision or a collective commitment or promise to make a decision on a motion, proposal, resolution, proposal, resolution, order, or ordinance or formation of a position or policy but shall not include guidance in negotiations given by members of the county board to legal counsel or other negotiations as noted above. (§84-1410(2))
- ✓ Any board member has the right to challenge the continuation of a closed session if that member determines that the session has exceeded the reason stated in the original motion to hold a closed session, or if the member contends that the session is not clearly necessary to protect the public interest or to prevent needless injury to the reputation of an individual. Such challenge shall be overruled only by a majority vote of the members of the public body and shall be recorded in the minutes. (§84-1410(3))
- ✓ The board may not fail to invite a portion of its members to a meeting, and no board may designate itself a subcommittee of the whole body for purposes of circumventing open meetings laws. No closed session, informal meeting, chance meeting, social gathering, fax, email, or other electronic communication be used for purposes of circumventing open meetings laws. (§84-1410(4))
- ✓ Open meeting laws do not apply to chance meetings or to attendance at or travel to conventions or workshops of members of a board at which there is no meeting of the body then intentionally convened, if there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction, or advisory power. (§84-1410(5))

EXAMPLE: ➤ Any requests prior to the board meeting for an executive session shall be made by a board member with the office of the (e.g., county clerk) in the same manner as an agenda item and shall be filed at the county clerk's office.

EXAMPLE: ➤ The board may request the county clerk's attendance as an observer only at the executive session. Other elected or appointed officials or other interested persons may attend the executive session at the request of the board.

EXAMPLE: ➤ With respect to the taking of minutes during executive sessions:

- Sample Options: (select one)*
- (1) No minutes shall be taken during executive sessions.
 - (2) The clerk may take minutes during executive sessions for internal reference only. These minutes shall be signed and dated by the clerk and placed in a sealed envelope in a safety deposit box requiring the signatures of the county clerk and board chair for access. These executive session minutes may be opened only in the event of a legal challenge related to the executive session. These minutes

shall be removed and destroyed with notice to the county board at the expiration of the statute of limitations of the topic of the executive session.

MINUTES

- ✓ The county board shall keep minutes of all meetings showing the time and place of the meeting, members present and absent, and the substance of all matters discussed. (§84-1413(1)) The county clerk shall attend the sessions of the county board. The clerk shall sign the record the proceedings of the county board and attest to the same with the county seal. (§23-1301) If the county clerk or his or her deputy is unable to be present for any proceeding of the county board, the county clerk may appoint a designee to record the proceedings. (§23-1302) The county clerk and the county assessor or his or her designee shall attend meetings of the county board sitting as the board of equalization pertaining to the assessment or exemption of real property. The county treasurer shall attend all meetings of the county board of equalization involving exemption of motor vehicles from motor vehicle tax. (§77-1501)
- ✓ Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the board in open session, and the record shall state how each member voted or if the member was absent or not voting. The requirements of a roll call or viva voce vote shall be satisfied by a county which utilizes an electronic voting device which allows the yeas and nays of each member of such county board to be readily seen by the public. (§84-1413(2)) The record need not state that the vote was by roll call, but must show if and how each member voted. (*State ex rel. Schuler v. Dunbar*, 214 Neb. 85, 333 N.W. 2d 652 (1983))
- ✓ The vote to elect leadership within a county board may be taken by secret ballot, but the total number of votes for each candidate shall be recorded in the minutes. (§84-1413(3))
- ✓ The minutes of all meetings and evidence and documentation received or disclosed in open session shall be public records and open to public inspection during normal business hours. (§84-1413(4))
- ✓ Minutes shall be written and available for inspection within ten working days or the next convened meeting, whichever occurs earlier. (§84-1413(5))
- ✓ In counties of less than 150,000 inhabitants, the county board shall publish, within ten working days of each board meeting, a brief statement of the proceedings, including the amount of each claim allowed, the purpose of the claim, and the name of the claimant, except that payroll amounts may be included as one item. Specific salary information shall be published annually. (§23-122)

EXAMPLE: ➤ A brief statement of the proceedings for publication shall include those items required by §23-122, and may also include list of board members in attendance, the time and place of the meeting, major topics of discussion and their resolution, and other items which may be helpful in summarizing the meeting. The published statement need not contain the full meeting minutes.

EXAMPLE: ➤ The following information should be included in the first paragraph of the minutes: the kind of meeting (regular, special, quarterly); the name of the board; the date and place of the meeting; and officials in attendance.

EXAMPLE: ➤ Before an adjournment when it will be a long time before the next meeting, the clerk may read the current minutes for approval, rather than wait until the next meeting. But if the next meeting will be held within a reasonable time, the clerk should read the minutes at the next meeting, at which time they would be adopted, after any necessary correction. If errors are discovered later, the minutes should be corrected again, especially when the corrected record supplies some omitted fact or board action.

EXAMPLE: ➤ The clerk, as secretary to the board, shall sign the minutes upon their completion. If corrections are made to the minutes after publication, a correction shall be published in conjunction with the next publication of minutes.

EXAMPLE: ➤ The clerk need not record debate, but shall enter every motion that comes before the board and the vote of each member, as required by the Open Meetings Act. The published minutes may include only principal motions which are approved and indicate that other topics were addressed but not advanced.

EXAMPLE: ➤ If the committees present written reports, the clerk should note on each report the date received and any further action taken, and preserve them. The clerk may summarize the reports in the minutes.

BIDS

✓ The County Board shall follow the requirements of the County Purchasing Act as set out in §23-3101 et seq.

EXAMPLE: ➤ The time and date of receipt shall be stamped on all bids envelopes submitted to the county clerk.

EXAMPLE: ➤ Bid envelopes shall remain sealed until opened on the published date and time. Bids received later than the published date and time to submit bids shall be rejected.