

## IV. Board Meetings

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Training modules are available on the SWCD Intranet to help board members learn about their responsibilities and provide general information about Soil and Water Conservation Districts.

### ***A. Board Meeting Requirements***

#### **1. Board Member Voting Eligibility**

All board members are eligible to vote on all matters of the district except in certain instances. In general, board members are required to abstain from voting on any issues where they may have a conflict of interest. For example, board members are required to abstain from issues involving cost-share contracts, change orders and contract payments for their own farm or any other farm where they are the operator. A board member must also abstain from cost-share issues where they are the contractor or provide materials through their personal business. In addition, a board member cannot vote on any issues that could provide a monetary benefit to them or to their immediate family members.

#### **2. Nepotism**

- a. Nepotism is defined as patronage or favoritism that is based on family relationships in business. According to the Missouri Constitution, nepotism occurs when any public officer or employee in this state, who by virtue of his office or employment, names or appoints to public office or employment, any relative within the fourth degree of consanguinity of affinity. The employee/office holder must forfeit the office or employment. It forbids appointments of relatives within the fourth degree. Fourth degree relations include first cousins, great aunts/uncles, grand nieces/nephews, great-great grandchildren and great-great grandparents.
- b. An official who abstains from voting when a relative is under consideration for employment is not in violation. However, if the relative is hired, the board member must resign. If a board member who is a relative is elected, and a relative within the fourth degree is already working for the district, the board member must abstain from any personnel decisions regarding that individual.

#### **3. Quorum**

- a. RSMo. 278.110 states that “(a) majority of the board of the soil and water supervisors shall constitute a quorum but the concurrence of a majority of the whole board shall be required for the determination of any matter within their duties.”
- b. A majority of the supervisors (three) constitute a quorum. No action can be taken on an issue unless there is a minimum of three votes cast in favor of passing the issue. The presiding officer must vote on all motions except those issues where a conflict of interest may exist. No official action can be taken in the absence of a quorum.

#### **4. The Missouri Sunshine Law – Open Meeting Requirements**

- a. The State’s most current open meetings and records law booklet, containing the actual law, can be obtained from the Office of the Attorney General, P.O. Box 899, Jefferson City, Missouri, 65102. The following information has been referenced from The Missouri Sunshine Law booklet, published in 2009.

- 1) Missouri's commitment to openness in government is clearly stated in Section 610.011 of the Sunshine Law: "It is the public policy of this state that meetings, records, votes, actions, and deliberations of public governmental bodies be open to the public unless otherwise provided by law. Sections 610.010 to 610.200 shall be liberally construed and their exceptions strictly construed to promote this public policy."
- 2) The law sets out the specific instances when a meeting, record, or vote may be closed, while stressing these exceptions are to be strictly interpreted to promote the public policy of openness.
- 3) Public meetings, including meetings conducted by telephone, Internet or other electronic means, are to be held at reasonably convenient times and must be accessible to the public. Meetings must be held in facilities that are large enough to accommodate anticipated attendance by the public and accessible to persons with disabilities.

b. **Public Governmental Bodies**

- 1) The Sunshine Law governs the actions of public governmental bodies, which are defined as legislative, administrative or other governmental entities created by the constitution or statutes of this state, or by order or ordinance of any political subdivision or districts as well as judicial entities when operating in an administrative capacity.
- 2) This includes not just state agencies and officials, but also governing bodies of institutions of higher education; and any department of any political subdivision of the state, county or municipal government, school district or special-purpose district, such as fire, ambulance, road, sewer, and water districts.
- 3) The term "governmental body" is defined to include "quasi-public governmental bodies," which are defined in Section 610.010 (4) (f). Those entities that regularly enter into contracts with public governmental bodies or perform certain types of public functions (such as issuing tax credits) must review this definition to determine whether they must comply with the Sunshine Law.
- 4) The Missouri Sunshine Law governs only state, local and quasi-public governmental bodies. Federal officers and agencies are covered by the federal Freedom of Information Act.

c. **Sunshine Policy**

Each public governmental body shall provide a reasonable written policy consistent with the Sunshine Law and open to the public regarding access to public records and meetings.

d. **Meeting Notices**

- 1) At least 24 hours (excluding weekends and holidays) before a public meeting, the public body must prominently post a notice of the meeting in its principal office (Refer to the “Notice of Open Meeting,” “Notice of Closed Meeting,” and “Notice of Open Meeting and Vote to Close” forms in the Appendix). If there is no such office, the public body shall post the notice at the meeting place. The notice must include:
  - a) Date of meeting.
  - b) Time of meeting.
  - c) Place of meeting.
  - d) Tentative agenda of an open meeting (refer to the “Tentative Agenda” in the Appendix).
  - e) Whether the meeting is open or closed.
- 2) If the public body intends to hold a meeting by conference call or other electronic means, the notice must specify the location where the public may observe and attend that meeting. If the public body meets via Internet or other computer link, it shall post a notice on its Web site in addition to posting the notice at its principal office.
- 3) If exceptional circumstances prevent the public body from posting notice 24 hours in advance or prevent the meeting from being held at a convenient time or in a place reasonably accessible to the public, the reasons must be stated in the meeting’s minutes.
- 4) It is recommended that the meeting notice be posted as far in advance as possible.
- 5) A notice must be posted even if a meeting is closed. It must include the date, time, place and reason for closing the meeting and must refer to the specific provision of the law allowing the meeting to be closed.

e. **Public Records**

- 1) Unless otherwise provided by law, records of a public governmental body are to be open and available to the public for inspection and copying. The governmental body may charge a fee, up to the maximum amount established in the current Sunshine Law, for standard copies and the actual cost of the copy for larger or specialized documents (such as maps, photos and graphics). The body also may charge a reasonable fee for the time necessary to search for and copy public records. Research time may be charged at the actual cost incurred to locate the requested records. Copying time shall not exceed the average hourly rate of pay for clerical staff of the public body. A public body may reduce or waive costs when it determines the request is made in the public interest and is not made for commercial purposes.
- 2) The term “public record” includes records created or maintained by private contractors under an agreement with a public governmental body or on behalf of a public governmental body.

- 3) Each public governmental body must appoint a custodian of records. The Sunshine Law requires that each request for access to a public record be acted on no later than the end of the third business day following the date the request is received by the custodian. If access is denied, the custodian must explain in writing and must include why access is denied, including the statute that authorizes the denial.
- 4) If only part of a record may be closed, the rest of the record must be made available. The law also requires that if a request is made in a particular format, the custodian shall provide the records in that format if it is available.

f. **Email Among Members of Public Bodies**

If a member of a public body transmits an e-mail relating to public business to at least two other members of the body so that, when counting the sender, a majority of members are copied, a copy of the e-mail shall be sent to either the custodian of records, or the member's public office computer. Any such message, subject to the exceptions of Section 610.021, shall be considered a public record upon receipt by the custodian or at the public member's computer.

g. **Closed Meetings and Records (Executive Session)**

- 1) A public governmental body is permitted, but not required, to close its meetings, records and votes when they relate to certain issues listed in Section 610.021. When a public body relies on one of these exceptions to close a meeting or record, it must bear in mind that the exceptions are to be read narrowly under Section 610.011. Matters that may be closed include:
  - a) Legal actions, causes of action or litigation (except that votes, minutes and settlement agreements must be opened to the public on final disposition, unless ordered closed by a court).
  - b) Leasing, purchase or sale of real estate where public knowledge might adversely affect the amount paid in the transaction.
  - c) Hiring, firing, disciplining or promoting a particular employee.
  - d) Welfare cases of identifiable individuals.
  - e) Software codes for electronic data processing.
  - f) Individually identifiable personnel records.
  - g) Records that are protected from disclosure by other laws.
- 2) When a public governmental body votes to meet in a closed session, members must cite in open session the specific statute and subsection allowing closure. Once in closed session, the public body may not discuss any matter beyond the scope of the stated reason for the closed session. The public governmental body must close only that portion of the facility necessary for its members to conduct the closed meeting, allowing space for the public to remain and attend any later open session.

**h. Who Can Bring Legal Action**

Any Missouri taxpayer, citizen or aggrieved person, the Attorney General, or the county prosecutor may bring a court action to enforce the Sunshine Law. The lawsuit must be filed in the circuit court in the county where the public governmental body has its principal place of business. A lawsuit must be filed within one year from when the violation is ascertainable, and in no event shall it be brought later than two years after the violation occurred.

**i. Penalties**

- 1) If the court finds a public governmental body has violated the Sunshine Law, it may declare void any action taken in violation of the law. If the court finds, by a preponderance of evidence, that the public body or a member of the public body has knowingly violated the Sunshine Law, the court:
  - a) Shall subject the member or body to a civil fine of up to \$1,000, and
  - b) May order the member or body to pay all costs and reasonable attorney fees to any party successfully establishing a violation.
- 2) If the court finds, by a preponderance of evidence, that the public body or member has purposely violated the Sunshine Law, the court shall:
  - a) Subject the member or body to a civil fine of up to \$5,000, and
  - b) Order the member or body to pay all court costs and reasonable attorney fees.
  - c) In addition, the court shall void an action taken in closed session if it determines that the public interest in enforcing openness outweighs the interest in sustaining the action. If a public governmental body has any doubt about the legality of closing a particular meeting, record or vote, it may bring suit in the circuit court to determine whether the action is proper or it may seek a formal opinion from its own attorney or from the Attorney General.

**5. Liability in a Lawsuit**

RSMo Section 278.120 states that the district "...shall be capable of suing and being sued." Because board supervisors are members of an agency of government whose powers and duties can only be exercised by a decision of the majority of the board when the board is officially in session, the members of the board and its employees act as agents of the board. In order to protect the individual members of the board, its agents, and the interests of the district, the board may purchase, with state grants, liability insurance necessary to indemnify board members and agents of the board for their official actions in the service of the soil and water conservation districts. Some soil and water conservation districts use the Missouri Public Entity Risk Management program (MoPERM). MoPERM offers low cost liability insurance coverage to Missouri public entities. There are also other companies that sell liability insurance. A district should select an insurance company that meets its individual needs.

## 6. **The Decision to Sue**

The district may sue an individual for a loss, which the district sustains. It is up to the district supervisors to make the determination whether a suit must be brought to recover losses of district property. RSMo Section 278.120 grants them this authority.

## ***B. Running the Board Meeting***

Although the district law is not specific as to the number of meetings each board must conduct, regular monthly meetings are recommended to resolve district issues in a timely manner.

### 1. **Meeting Agendas**

A good meeting agenda is necessary for a successful board meeting (refer to the “Tentative Agenda” in the Appendix). If supervisors do not receive an agenda prior to the meeting, they will arrive unprepared for the items of discussion. Agendas mailed out prior to the board meetings also serve as meeting reminders. Besides supervisors, the district should send agendas to district coordinators and NRCS personnel. Items not listed on the agenda may be discussed under new business, then brought up for vote at a future meeting when listed on the agenda. This allows any interested party to be present to voice their support or opposition on the issue.

### 2. **Order of Business**

- a. Call meeting to order.
- b. Introduce visitors.
- c. Approve minutes of the previous board meeting.
- d. Approve Treasurer’s Report from the previous month(s).
- e. Make committee appointments, as necessary.
- f. Discussion of old or unfinished business.
- g. Discussion of new business.
- h. Approval of uncommon expenditures of the district for future purchases.
- i. Approval/denial of cost-share contracts, change orders and contract payments.
- j. Approval of new cooperators.
- k. Approval of Conservation Plans.
- l. Correspondence.
- m. District employee reports.
- n. Other reports.
- o. Closed session, if necessary and only if intent to go into closed session was cited on publicly posted meeting notice, including specific subsection from Missouri Revised statutes, RsMO 610.021.
- p. Plans for next meeting.

q. Adjournment, stating time adjourned.

3. **Minutes**

- a. Board meeting minutes serve as the official record of the transactions and proceedings of the board of supervisors and are a permanent record; thus, they must be complete and accurate.
- b. Copies of the draft minutes must be sent to the supervisors as soon as possible after the board meeting so the supervisors will have an opportunity to read them at home and correct any errors while the material is still fresh in their minds. This will also save time at the next board meeting.
- c. References to people in the minutes must be complete. A statement in the minutes, “John made a motion...” or “Bill gave a report...” is not sufficient for identification of the individual referred to in the minutes. The appropriate statement would be “vice-chair John Doe made a motion...” or “NRCS technician Bill Smith reported on...”
- d. Minutes must have enough information about the items discussed to enable readers to fully understand the issues and what actions were taken. If an item is discussed but no action is taken, report in the minutes that no action was taken. If action is taken, make sure that it is properly recorded in the minutes by stating if it was a unanimous vote or by listing the individuals voting in favor or in opposition.
- e. When a motion is made include the full motion in writing, the names of the supervisors entering the motions, seconding, discussing and amending the motions, and whether the motion passed or was defeated. Record votes cast, both yea and nay, by listing individuals voting in favor and in opposition.
- f. Copies of the approved minutes and attachments must be sent to the following:
  - 1) All supervisors.
  - 2) Soil and Water Districts Commission/ Program Office monthly (scanned copy).
  - 3) Anyone else interested in district activities upon request (as defined by the Sunshine Law – Open Meetings).

4. **Content of Board Meeting Minutes**

- a. Official district minutes must contain the following items:
  - 1) Date of meeting.
  - 2) Meeting location.
  - 3) Type of meeting (regular or special).
  - 4) Time meeting called to order..
  - 5) Name of supervisors present.
  - 6) Name of supervisors absent.
  - 7) Name of others present and what organizations they represent.
  - 8) Name of presiding officer.

- 9) Approval of minutes of previous meeting.
- 10) Treasurer's report (must be an attachment from the DNR provided software program):
  - a) Time period covered.
  - b) Balances.
  - c) Listing of income received.
  - d) Listing of disbursements.
  - e) Approval of the treasurer's report.
- 11) Appointments to committees, delegates, etc.
- 12) Motions, including:
  - a) The name of the maker, seconded, discussion, amendments to motion (name of maker, seconded, outcome of vote), motion passed or defeated.
  - b) The motion written in full.
  - c) The votes cast both yea and nay.
- 13) Verbal or written reports provided to the board (written reports must be attached as presented):
  - a) Committee reports.
  - b) District employees' reports.
  - c) NRCS report.
  - d) Cooperative Extension Service report.
- 14) Discussion of old business.
- 15) Discussion of new business.
- 16) Approval of new, uncommon expenditures
- 17) Approval/denial of cost-share (includes landowner, practice, amount approved/denied and contract number). These reports should be run in MoSWIMS and attached as contracts approved, change orders approved and contract payments approved.
- 18) Acceptance of new cooperators.
- 19) Approval of conservation plans.
- 20) Correspondence (program office correspondence must be noted in the minutes but does not have to be scanned and e-mailed).
- 21) Closed session, only if intent to go into closed session was cited on publicly posted meeting notice, including specific subsection from Missouri Revised statutes, RsMO 610.021.
- 22) Plans for next meeting.

23) Adjournment (list time of adjournment).

24) Minutes must be signed by the board secretary (must be a board member) and presiding officer of the meeting to validate that minutes accurately represent the proceedings of the meeting.

5. **Policy Handbook**

- a. All cost-share and personnel policy issues approved by a district board need to be placed in the proper policy books for future reference.
- b. For assistance in development of district policies, a sample personnel handbook, with sample policies from the Missouri Office of Administration, is available on the SWCD Intranet for all districts to utilize.