

STATE OF NEW MEXICO  
COUNTY OF EDDY  
RESOLUTION NUMBER: R-11-67

**OPEN MEETINGS ACT - 2012**

WHEREAS, the Eddy County Board of Commissioners met in regular session at Carlsbad, New Mexico, County of Eddy on this 6th day of December, 2011, as per law;

AND WHEREAS, Section 10-15-1(B) of the "Open Meetings Act", (NMSA, 1978, Section 10-15-1 to 10-15-4) states that, except as may be otherwise provided in the Constitution or the provisions of the Open Meetings Act, all meetings of a quorum of members of any board, council, commission or other policy-making body of any state or local public agency held for the purpose of formulating public policy, discussing public business or for the purpose of taking any action within the authority of or the delegated authority of such body, are declared to be public meetings open to the public at all times;

AND WHEREAS, any meetings subject to the Open Meetings Act at which the discussion or adoption of any proposed resolution, rule, regulation or formal action occurs shall be held only after reasonable notice to the public;

AND WHEREAS, Section 10-15-1(D) of the Open Meetings Act requires the county to determine annually what constitutes reasonable notice of its public meetings.

NOW, THEREFORE BE IT RESOLVED that the following guidelines and rules shall be adopted on this date, and it is the intent and desire of the Eddy County Board of Commissioners to comply with the current "Open Meetings Act" of the State of New Mexico.

I. OPEN MEETINGS GUIDELINES & RULES

A. STATE POLICY ON OPEN MEETINGS:

1. In recognition of the fact that a representative government is dependent upon an informed electorate, it is declared to be public policy of this state that all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of those officers and employees who represent them. The formation of public policy or the conduct of business by vote shall not be conducted in closed meetings. All meetings of any public body except the legislature and the courts shall be public meetings and all persons so desiring shall be permitted to attend and listen to the deliberations and proceedings.

Reasonable efforts shall be made to accommodate the use of audio and video recording devices.

B. PUBLIC MEETINGS SUBJECT TO THE ACT:

1. All meetings of a quorum of members of any board, commission or other policy making body of any state agency, and agency or authority of any county, municipality, district or any political subdivision, held for the purpose of formulating public policy, including the development of personnel policy, rules, regulations or ordinances, discussing public business or for the purpose of taking any action within the authority of or the delegated authority of any board, commission or other policy making body are declared to be public meetings open to the public at all times, except as otherwise provided in the constitution of New Mexico or the provisions of the Open Meetings Act. No public meetings once convened that is otherwise required to be open pursuant to the Open Meetings Act shall be closed or dissolved into small groups or committees for the purpose of permitting the closing of the meeting.

C. NOTICE REQUIREMENTS:

1. Any meetings at which the discussion or adoption of any proposed resolution, rule, regulation or formal action occurs and at which a majority of quorum of the body is in attendance, and any closed

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meetings, shall be held only after reasonable notice to the public. The affected body shall determine at least annually in a public meeting what notice for a public meeting is reasonable when applied to that body. That notice shall include broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation which have provided a written request for such notice.

- a. All regular meetings shall be held on the first and third Tuesdays of each month at 8:30 a.m. in the Eddy County Administration Complex, Room 211, 101 W. Greene Street, Carlsbad, New Mexico, 88220. Exceptions are as follows:

**January 17, 2012 – Cancelled**

**June 19, 2012 – Cancelled**

**June 5, 2012 – Cancelled and Rescheduled for June 6, 2012**

**November 6, 2012 – Cancelled and Rescheduled for November 7, 2012**

- b. A proposed agenda will be sent to all county radio stations, TV stations and newspapers of general circulation upon three days notice for a regularly scheduled county commission meeting.
  - c. Special County Commission Meetings may be called by the chairman of the commission or a majority of the members upon three days notice to the radio, TV and newspapers of the county. **Special Commission Meetings Scheduled to Close Election Canvasses: June 13, 2012 and November 14, 2012.**
2. Special Emergency County Commission Meeting will be called only under circumstances which demand immediate action to protect the health, safety, welfare and property of the citizens, or for any immediate action required by law and which action must be approved by the county commission prior to the next regular county commission meeting.
    - a. The Board of County Commissioners will avoid emergency meetings whenever possible. Emergency meetings may be called by the Chairman or a majority of the members upon six hours notice.
    - b. In the event of any emergency meeting, the media of the county must be given at least six hours notice.

D. MINUTES:

1. The board, commission or other policy making body shall keep minutes of all its open meetings. The meetings 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 which 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 policy making body.
  - a. Minutes shall be taken by the Eddy County Clerk or her authorized representative.
  - b. The County Clerk shall be responsible for the minutes and taking the final minutes to the County Manager who will attach them to the meeting agenda which is sent to the board of county commissioners and other elected officials, at least three days prior to the upcoming regular county commission meeting.

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E. EXCEPTIONS:

1. The provisions of Subsections "A", "B", and "D" of this section do not apply to:

- a. Licensing: Meetings pertaining to issuance, suspension, renewal or revocation of a license, except that a hearing at which evidence is offered or rebutted shall be open. All final actions on the issuance, suspension, renewal or revocation of a license shall be taken at an open meeting.
- b. Personnel Matters: Limited personnel matters; providing that for purposes of the Open Meetings Act, "limited personnel matters" means the discussion of hiring, promotion, demotion, dismissal, assignment or resignation of, or the investigation or consideration of complaints or charges against any individual public employee; provided further that this subsection is not to be construed as to exempt final actions on personnel from being taken to open public meetings; nor does it preclude an aggrieved public employee from demanding a public hearing. Judicial candidates interviewed by any commission shall have the right to demand an open interview.
- c. Collective Bargaining: Meetings for the discussion of bargaining strategy preliminary to collective bargaining negotiations between the policy making body and a bargaining unit representing the employees of that policy-making body and collective bargaining sessions at which the policy-making body and the representatives of the collective bargaining unit are present.
- d. Certain Purchases: That portion of meetings at which a decision concerning purchases in an amount exceeding Five Thousand Dollars (\$2,500), that can be made only from one source. The actual approval of purchase of the item shall be made in an open meeting.
  - (1) This paragraph authorizes a public body to discuss in closed session;
    - (A) A purchase;
    - (B) That exceeds \$2,500 in amount; and
    - (C) That can only be made from one source. The final action taken to approve such a purchase must be taken at an open meeting.
- e. Litigation: Meeting subject to the attorney-client privilege pertaining to threatened or pending litigation in which the public body is or may become a participant.
- f. Real Property and Water Rights: Meetings for the discussion of the purchase, acquisition or disposal of real property or water rights by the public body.
- g. Certain Public Hospital Board Discussions: Those portions of meetings of committees or boards of public hospitals which receive less than fifty percent of their operating budget from direct public funds and appropriations where strategic and long range business plans are discussed.

F CLOSED MEETINGS:

1. If any meeting is closed pursuant to the exclusions contained in subsection "E" of this section, the following shall apply;
  - a. Closing an Open Meeting: (The closure) if made in an open meeting, shall be approved by a

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majority vote of a quorum of the policy-making body and the authority for the closure shall be stated in the motion calling for the vote on a closed meeting and the vote shall be taken in an open meeting and the vote of each individual member is to be recorded in the minutes. Only those subjects announced and voted upon prior to closure by the policy-making body may be discussed in a closed meeting.

- b. Calling a Closed Meeting Outside an Open Meeting: The closure, if called for when the policy-making body is not in an open meeting, the closed meeting shall not be held until public notice, appropriate under the circumstances, stating the specific provision of the law authorizing the closed meeting is given to the members and to the general public.

**II. GENERAL MEETING GUIDELINES NOT COVERED IN SECTION I.**

- A. All persons, agencies and/or organizations who desire to discuss public business or matters with the county commissioners at a regular scheduled county commission meeting, and are not indicated on the printed and prepared agenda, will only be heard by the commission on a limited basis and no decisions will be made on the matters discussed except as indicated below:
  1. It is an emergency, and the person, agency or organization was not aware of the business to be conducted at the time the printed agenda was distributed.
  2. A matter which must be discussed at this time by a person, agency, organization or county manager who was unable to have the subject placed on the printed and prepared agenda in time, due to existing circumstances, and who must discuss the issue at this meeting because the person, agency, organization or county manager will not be available at the next commission meeting.
  3. A matter which is submitted to the board of county commissioners which came to the attention of the county after the prepared agenda had been sent out to the distribution, and action is required prior to the next meeting because of extenuating circumstances, or required by law, or required by a deadline, or is for the best interest of the county government, or for the protection of the health, welfare and safety of the citizens of the county.
    - a. If a person, agency or organization is not on the printed agenda, but is allowed to make their presentation, the commission may hear the request, but a decision will not be made until the following open meeting which will give the commissioners time to review the request and study the presented materials and information.
  4. It is not the intention of this section to restrict persons from making presentation, but only, to give the board of county commissioners time to review the presented material, and to determine if funds and other resources are available and consult with the county attorney.
- B. The county shall have "Regular" and "Special" county commission meetings. The Board of County Commissioners have designated the terms as follows:
  1. Regular Meeting: Regular Meetings will be held on the first and third Tuesdays of each month at 8:30 a.m. at the Eddy County Administration Complex, Room 211, 101 W. Greene Street, Carlsbad, New Mexico, 88220. Exceptions are as follows:

**January 17, 2012 – Cancelled**

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2. Special Meeting: Special Meetings shall be any other county commission meeting which are times and locations other than the "regular meeting". **Special Commission Meetings Scheduled to Close Election Canvasses: June 13, 2012 and November 14, 2012.**
3. Emergency Meeting: An Emergency Meeting is a "special meeting", and shall be designated as a "Special Emergency Meeting".
4. A regular meeting, special meeting or special emergency meeting may be held at any other location, time and date, as long as the public has been adequately notified through the county news media by the official printed and prepared agenda, or in the case of a special emergency meeting, by a telephone call from the office of the county manager.
  - a. The person in the county manager's office making the special emergency meeting notification by telephone should maintain a record of what media was called, to who the message was given, along with the date and time.

C. It is the intent and desire of the Eddy County Board of Commissioners to comply with the New Mexico State Open Meetings Act.

PASSED AND ADOPTED on this 6<sup>th</sup> day of December, 2011, by the Eddy County Board of Commissioners in an open meeting in Carlsbad, Eddy County, New Mexico.

EDDY COUNTY BOARD OF COMMISSIONERS  
EDDY COUNTY, NEW MEXICO

  
County Commission Chairman

ATTEST:

  
County Clerk

