



## Open Meeting Act

### **Purpose:**

It is important to understand what is required to meet the Open Meeting Law for Montana Conservation Districts. There are certain requirements set in statute that districts need to follow when conducting meetings, board meetings, team inspections etc. Proper protocol must be followed when conducting business meetings.

### **What's considered a Meeting?**

A "meeting" means the convening of a quorum of the supervisors described in MCA 2-3-203, whether corporal or by means of electronic equipment, to hear, discuss, or act upon a matter over which the district has supervision, control, jurisdiction, or advisory power.

However, the Act is broad enough to include any informal gathering where there may be a majority of supervisors present, which constitutes a quorum, conducting business. As such, it is considered a meeting and must be **open** and **noticed**

### **Open Meetings:**

According to Montana statute **MCA 2-3-201**, all meetings are to be Open to the public. The legislature finds and declares that public boards, commissions, councils, and other public agencies in this state exist to aid in the conduct of the peoples' business.

**It is the intent of this part [statute] that actions and deliberations of all public agencies [conservation districts] shall be conducted openly. MCA 2-3-201**

### **Notice of Meeting:**

All meetings need to be noticed. The notice should clearly state the date, the time, and the place of the meeting. DNRC recommends consistency is the key. If your district posts a meeting notice, it should be done at least 7 days prior to regular meetings and at least 24 hours for special meetings. It should be posted in the same place each time/

month. If your district notices it in the paper, on a website, or elsewhere, it should be done consistently as well.

**The failure to give notice can result in the actions of the Board being voided. MCA 2-3-213**

*So, any time supervisors get together to conduct business such as board meetings, 310 inspections, annual/long range planning sessions etc. and there is a quorum (including those on a conference call), these meetings must be open to the public (with 310 team inspections, anyone [public] besides the team members must obtain permission from the landowner prior to accessing private land. This can pose an issue if additional supervisors attend for either training or just to look at the project. If so, just notice it normally.*

**Closed Meetings/Executive Session:** There are few situations where a meeting may be closed according to statute (MCA 2-3-203). The Chair may close the board meeting to discuss:

- Personnel matters, such as discussion of salaries, evaluations of employees, disciplinary actions, and/or discussions of pending legal problems
- Matters of individual privacy and then if and only if the presiding officer determines that the demands of individual privacy clearly exceed the merits of public disclosure. The right of individual privacy may be waived by the individual about whom the discussion pertains and, in that event, the meeting must be open.

**Waiving of rights: If a meeting is to be closed to discuss private matters, the individual who the meeting is being closed over may waive their individual privacy rights. If they do, then the meeting must be open. MCA 2-3-203(3)**

- A strategy to be followed with respect to litigation when an





## Open Meeting Act Cont'd:

open meeting would have a detrimental effect on the litigating position of the public agency.

### **Public Recording:**

Ever have a reporter or private individual take pictures or video of your board meeting?? Although this may be a little nerve racking, those doing so may not be excluded from any open meeting and may not be prohibited from taking photographs, televising, or recording such meetings. HOWEVER, the presiding officer (Chair) may assure that such activities do not interfere with the conduct of the meeting.

### **Meeting Minutes: 2-3-212.**

- (1) Appropriate minutes of all meetings required by 2-3-203 to be open shall be kept and shall be available for inspection by the public.
- (2) Such minutes should include at a minimum:
  - (a) date, time, and place of meeting;
  - (b) a list of the individual members of the public body, agency, or organization in attendance;
  - (c) the substance of all matters proposed, discussed, or decided; and
  - (d) at the request of any member, a record by individual members of any votes taken.

**See handout titled "Conservation District Minutes" for additional guidelines not specifically spelled out in law.**

### **Did you know....**

- Committees and/or subcommittees appointed by a public body or an association for the purpose of conducting business that is within the jurisdiction of the District is subject to the requirements of this section.
- The failure to give notice can result in the actions of the Board being voided.
- Only the Chair may close a meeting. A motion to go into closed session is privileged, is not debatable or amendable, and is adopted by majority vote (per Sturgis parliamentary procedures).
- Also, per Sturgis, the minutes of a closed session are available only to those authorized to attend the session, unless the district or committee votes to make them available to the public.
- Meeting minutes are considered public record.
- **Meetings minutes are to be sent to the DNRC, per MCA 76-15-315**

# CONSERVATION DISTRICT MINUTES

Minutes are more than a summary of actions; they are a permanent historical document describing all conservation district business and events. They record decisions made, projects accomplished, policies set, and the people involved or affected. Minutes also provide documentation that a conservation district conducted business according to the laws and rules they are required to follow. Are you documenting your actions properly? Are you including too much information? Too Little?

The public participation in governmental operations section of the law (2-3-212) states those minutes shall be kept and shall be available for inspection by the public. According to the law, minutes shall include, without limitation, the following:

1. The date, time, and place of the meeting.
2. A list of individual members of the public body, agency, or organization in attendance.
3. The substance of all matters proposed, discussed, or decided.
4. A record by individual members of votes taken (only if requested by a member).

Below are some guidelines that are not necessarily spelled out in the law, but may be helpful to you in writing your minutes.

1. Conservation districts should discuss no official business without a quorum. Minutes should reflect whether a quorum was present. List names of those present (first and last names) and whom they represent, the presiding officer, etc.
2. Minutes should be on letterhead, if available, and should include the date and type or purpose of meeting.
3. Each page should be numbered and the date of the meeting should be included on each page, preferably at the top. This useful if the pages ever become separated and is useful in retrieving documents from microfiche. (See note on page 2).
4. Approval of previous month's minutes should be documented.
5. Document approval of the financial report, including income and disbursements. And document approval to pay bills. (76-15-726 states that "the treasurer shall report in writing at each regular meeting and as often at other times as the supervisors may request the amount of money on hand and the receipts and disbursements since his last report. Such report shall be verified.")
6. There is no need to record discussions verbatim, but don't waste ink on too general statements like "discussion held," "board discussed the issue at length". Generally describe the essence of the discussion and include the outcome of the discussion or leave it out.



7. Record all old business – follow up on all old or unfinished business. If at the last meeting, Mr. X was to check on something, follow up and document the results.
8. Record reports of group. It is important to at least generally describe the discussion. Don't merely state that "Ms. Y gave a report." Include any board action as a result of the report.
9. Record all motions or action with special attention stating exactly what motions were made and their disposition (carried, defeated, tabled, etc.). It is conventional to include the names of persons making motions and seconds, but it is not necessarily required. Official action (items voted requiring a vote) must be cleared.
10. Don't editorialize. Statements such as "a lengthy discussion" or "lively discussion" or "we listened to an excellent presentation on ...." should be omitted. Minutes should not include the writer's opinion – just the facts.
11. The minutes don't necessarily have to be written in chronological order. If using subheads or rearranging the order makes the minutes clearer, do it.
12. Note the time and date of the next scheduled meeting.
13. Since minutes are open to the public, keep confidential information out of the minutes. CD employee's wages are open to the public. Reasons for personnel actions are not necessarily open to the public.
14. Public comments. Document the names of those making comments and a brief summary of what was said.
15. A signature of the writer and the chair can be used if desired.
16. Send copies of your minutes to interested individuals. The list should include, at minimum, the Montana Association of Conservation District (MACD) area directors, president, and Helena office and the Department of Natural Resources and Conservation's Conservation District Bureau.

**Note:** The Department of Natural Resources and Conservation houses permanent conservation district records. CD minutes are microfilmed every ten years. Microfiche is kept in the Helena DNRC office and hard copies are forwarded to the Montana Historical Society.