



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



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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**