

WEST CENTRAL CONSERVANCY DISTRICT  
SPECIAL MEETING MINUTES  
JANUARY 11, 2012

Board Members Present: P. Allen, K. Buetow, J. Webb, C. Dorton  
Board Members Absent: W. Holland

3 WCCD Non-Board Representatives Present  
Guests as per sign-in log

The Meeting was held in the WCCD Board Room at 4:00 P.M.

Chairman convened the meeting after recognizing that the agenda was posted pursuant to the Indiana Open Door Law and that a quorum was present.

Public Access Counselor Joe Hoage conducted a work session with the Board on Public Access. Discussion included when executive sessions can be held and what topics are permitted to be discussed in an executive session I.C. &5-14-1.5-2(f). A Board vote is not permitted in an executive session and must be conducted in an open meeting I.C.&5-14-1.5-6.1( c). Notice of a public meeting must be posted 48 hours in advance of every session excluding Saturdays, Sundays and legal holidays and must state the time, date, location and subject matter by reference to the specific statutory exception under which an executive session may be held I.C.&5-14-1.5-5(a).

The governing body of a public agency is not required to use an agenda, but if it chooses to utilize one, the public agency must post a copy of the agenda at the entrance to the location of the meeting prior to the meeting. The District Manager had the public access counselor review tonight's posted meeting agenda and current notice was within code approval.

At the conclusion of an executive session the minutes shall certify by a statement that no subject matter was discussed in the executive session other than the subject matter specified in the public notice of which the district is in compliance within code approval.

In response to Chairman's question, if a complaint is filed on the public agency. Public access counselor cannot enforce compliance, but a lawsuit may be filed and proceed to a court hearing I.C.&5-14-1.5-7. A public agency may be liable for complainant fees if court rules in favor of complaint, but a public agency cannot receive fee reimbursement if complaint is overturned unless the court finds the legal action frivolous and vexatious.

The public agency must respond within 24 hours if a request is made orally or hand-delivered written. The public agency must respond within 7 days if a request is received by fax, mail (letter) or e-mail, but not all information requested must be available within 7 days and may be presented in segments.

A request is not instant access, but on a timely basis using common sense and open communication. Every request may not be honored due to subject content and confidentiality I.C. 5-14-3-4. Payment up front may be required in cases of large document reproduction.

(K. Buetow entered the meeting at 4:37 P.M.)

In response to Chairman's question on the secretary of the board supervising an election in which he is running for re-election, the counselor felt that he did not have any problem that the Chairman could appoint another Board Member or a freeholder but this would be best addressed by the election board since that was not his area of expertise. Legal Counsel stated this public agency is not governed by the election board.

In response to Chairman's question if the Chairman could vote in agency elections using the freeholder list providing we are open and consistent, the counselor felt that should be addressed by the election board since that was not his area of expertise. Legal counsel stated this public agency is not governed by the election board.

In response to Chairman's question, counselor agreed there is no requirement to allow public comment except in the budget hearing meeting and suggested that public agency be open/consistent/reasonable and that the board may set policy which should be equally applied to all.

In response to Chairman's question, counselor advised that a meeting may be conducted if the chairman and vice-chairman are not present and he stated meeting may be held if a quorum is present and that the quorum will decide who will chair the meeting.

Counselor suggested the a public agency executive session should be posted and scheduled prior to the regular meeting to allow for the meeting to conclude as not delaying the start of the regular scheduled meeting and permit a board vote if needed from discussion in the executive session. Counselor direction was to post start times of all meetings and commit to those start times with minimal delay if any, but that the start times of the meetings may vary. A public agency holding regularly scheduled meetings may provide notice once each year to news media I.C.&5-14-1.5-5(b)(2). The counselor advised to use common sense when scheduling all meetings.

Counselor advised if a public agency is wrong but unaware of any open door law violations, this is not considered a violation if corrective action is taken immediately to resolve the issue and to be in compliance.

A public agency is not required to keep minutes of a meeting, but if done they are open to public inspection even if in "draft" form.

Motion by C. Dorton, second by J. Webb, vote unanimous, to adjourn the meeting at 5:10 P.M.

P. Allen, Chairman

K. Buetow, Secretary