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RESOLUTION 2020-01

OPEN MEETINGS ACT

A SPECIAL RESOLUTION TO CONCLUDE AND DETERMINE IN WHAT MANNER REASONABLE NOTICE SHALL BE GIVEN TO THE PUBLIC RELATIVE TO THE FORMULATION OF PUBLIC POLICY, DISCUSSION OF PUBLIC POLICY, DISCUSSION OF PUBLIC BUSINESS OR WHEN FORMAL ACTION IS TAKEN BY THE GOVERNING BODY OF THE COUNTY OF COLFAX, NEW MEXICO, OR ANY OF ITS AGENCIES, AUTHORITIES, COMMISSIONS, COMMITTEES, OR OTHER POLICY-MAKING BODIES AND REPEALING COLFAX COUNTY RESOLUTION 2019-22

WHEREAS, NMSA Section 10-15-1, et seq., the Open Meetings Act, provides in relevant part that "The formation of public policy or the conduct of business by vote shall not be conducted in a closed meeting." Such act further provides, "all meetings of a quorum of members of any board, commission, administrative adjudicatory body or other policy, making body of any county 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 or the delegated authority of such 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;" and

WHEREAS, the Open Meetings Act further provides in material part that "any meetings at which the discussion or adoption of any proposed resolution, rule, regulation or formal action occurs, and at which a majority or quorum of the body is in attendance and any closed meetings, shall be held only after reasonable notice to the public; and

WHEREAS, the governing body of the County of Colfax, by virtue of this Resolution, is hereby complying with the annual requirements of the Open Meetings Act and further, the governing body is hereby determining what notice for its public meetings is reasonable, as contemplated by the provisions of the Open Meetings Act.

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE COUNTY OF COLFAX, NEW MEXICO that:

SECTION 1. Notice, including an agenda, of any and all regular meetings shall be published in a newspaper of general circulation in the County at least 72 hours in advance of any meeting of a quorum of the members of the governing body held for the purpose of taking any action within the authority of such body. The Agenda for the regular meeting shall be available at the office of the Colfax County Manager, whose office is located in the Colfax County Building, 230 North 3rd St., Raton, New Mexico 72 hours in advance of the meeting, and the Colfax County Manager shall make the agenda available by publication in a newspaper and radio station of general circulation within the County and on the Colfax County Website.

SECTION 2. Two regular meetings shall be held on the second and fourth Monday of each month, to begin at the hour of 9:00 A.M., in the County Commission Chambers of the Colfax County Building, 230 North 3rd St., in Raton, New Mexico, unless the Board of Commissioners shall determine another date, time, or place for such regular meeting and shall give notice of such determination.

SECTION 3. Notice of any special meetings of a quorum of the members of the governing body of Colfax County held for the purpose of formulating public policy, discussing public business, or for the purpose of taking any action within the authority of the body, may be given in any of the following ways:

- (a) Whenever possible, notice of special meetings shall be given in like manner as notice of regular meetings; however, when it is not possible to give notice of a special meeting in accordance with Section 1 above, notice of a special meeting shall be given to broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have provided the County a written request for such notice, and shall be posted on the Colfax County Website at least three (3) days in advance of any special meeting of the governing body of Colfax County.

A certificate or affidavit concerning the manner in which notice has been given for a special meeting shall be filed in the county manager's office.

SECTION 4. Special meetings shall be held at the same place as contemplated by Section 2 of this resolution, unless otherwise advertised and further, the date, time and place shall appear on the agenda made available to the public and news media, in the office of the Colfax County Manager, County of Colfax, New Mexico.

SECTION 5. The County Commission hereby requires that the Airport Advisory Board, Lodgers Tax Advisory Board, Subdivision Review Committee, Viewers appointed to consider County Road vacations, wherein a quorum of its members shall hold a meeting for the purpose of formulating public policy, discussing public business or taking action within such body shall follow notice requirements as provided by this Resolution and the Open Meetings Act. Ad hoc or other committees appointed by the Commission to make recommendations to the Commission but acting solely in an advisory capacity and

without authority to make decisions on behalf of the commission shall not be required to comply with the requirements of the Open Meetings Act.

SECTION 6. Notwithstanding any provision contained herein, the Chairman of the County Commission of Colfax County may call, with whatever notice is possible under the circumstances, a meeting of the governing body of the County to consider any unforeseen matter that if not addressed immediately will result in injury or damage to persons or property or substantial financial loss to Colfax County. Within ten days of taking action on an emergency matter, Colfax County shall report any action taken at an emergency meeting to the Office of the Attorney General of the State of New Mexico, unless a state or national emergency has been declared.

SECTION 7. Notwithstanding any provision contained herein, the County Commission or any governing body of any board, commission, authority or other policy-making body of the County may call and conduct closed meetings for the purpose of discussing or acting upon:

- issuance, suspension, renewal or revocation of license. (See Section 10-15-1-(H) (1) NMSA 1978)
- discussion of hiring, promotion, demotion, dismissal, assignment or resignation of or the investigation or consideration of complaints or charges against any individual public employee. (See Section 10-15-1 (H) (2), NMSA 1978)
- meetings for the discussion of bargaining strategy preliminary to collective bargaining negotiations between the governing body and a bargaining unit representing County employees. (See Section 10-15-1 (H) (5).
- deliberations of the County Commission in connection with an adjudicatory proceeding. (See Section 10-15-1 (H) (3), NMSA 1978)
- that portion of meetings at which a decision is made or discussed concerning purchases in an amount exceeding two thousand five hundred dollars (\$2,500) that can be made only from one source and that portion of meetings at which competitive sealed proposals solicited pursuant to the Procurement Code; are discussed during the contract negotiation process provided, however, actual approval of the purchase shall be made in an open meeting. (See Section 10-15-1 (H) (6), NMSA 1978)
- meetings subject to the attorney-client privilege pertaining to threatened or pending litigation in which the County is or may become a participant. (See Section 10-15-1 (H) (7), NMSA 1978)
- discussion of the purchase, acquisition or disposal of real property or water rights by the County. (See Section 10-15-1 (H) (8), NMSA 1978)

The requirements that meetings be open, and that minutes be kept by the governing body, board, commission or other policy-making body shall not apply to closed meetings conducted under Section 7 above.

In any meeting closed pursuant to the exclusions contained in Section 7 above or Subsection H 10-15-1, NMSA 1978, such closure shall:

1) if made in an open meeting, be approved by majority roll call vote of quorum of the policy-making body and the authority for such closure shall be stated in motion calling for the vote on the closed meeting and the vote shall be taken in open meeting and the vote of individual members shall be recorded in the minutes; and

2) if called for when the policy-making body is not in open meeting, such 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.

SECTION 8. The Board of Commissioners, Airport Advisory Board, Lodgers Tax Advisory Board, Subdivision Review Committee, Viewers appointed to consider County Road vacations or other policy-making body shall keep written minutes of all meetings, except those meetings closed in compliance with Section 7 of this Resolution. The minutes shall include, as a minimum, the date, time and place of the meeting, the names of the 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 shall be open to public inspection. Draft minutes shall be prepared within ten working days after the meeting. Minutes and action purportedly taken shall not become official or binding until approved by the policy-making body.

SECTION 9. Notwithstanding any provision contained herein, the Chairperson of the County Commission may establish such additional notice as he or she may deem necessary and advisable.

SECTION 10. Minutes of meetings of the Board of County Commissioners of Colfax County, New Mexico shall be prepared and approved in accordance with the provisions of NMSA 1978 Section 10-15-1G (1997); that is to say that draft minutes of such meetings shall be prepared within ten working days after each meeting, that such minutes shall be approved, amended, or disapproved at the next meeting of the Board of County Commissioners of Colfax County, New Mexico where a quorum is present, if such meeting is held ten or more working days after each prior meeting.

SECTION 11. The tapes of the meeting shall be kept and made available to the Board of County Commissioners of Colfax County, New Mexico until the minutes of such meeting shall be approved by the Board.

SECTION 12. Subsequent to the approval of the minutes of any meeting of the Board of County Commissioners of Colfax County, New Mexico, the minutes or amended minutes of such meeting shall be the official record of such meeting of the Board of County Commissioners of Colfax County, New Mexico, and

thereafter, the tapes of such meeting shall not be kept or retained by the Board of County Commissioners of Colfax County, New Mexico or the Office of the Clerk of Colfax County, New Mexico.

SECTION 13. At the conclusion of any closed meeting when the County Commission reconvenes in open meeting or at the next open meeting of the Board of County Commissioners of Colfax County, New Mexico where a quorum is present following a closed meeting separately scheduled, the Board of County Commissioners of Colfax County, New Mexico shall direct by motion that the minutes reflect no decisions were made and that the matters discussed in the closed meeting were limited to those specified in the motion to close such meeting or the notice of the separate closed meeting, and the vote of each individual Commissioner upon such motion shall be recorded in the minutes.

SECTION 14. Any member of the governing body of Colfax County may participate in a meeting of such governing body in a meeting of such by means of a conference telephone or other similar communications equipment when it is otherwise difficult or impossible for the member to attend the meeting in person, provided that each member participating by conference telephone can be identified when speaking, all participants are able to hear each other at the same time and members of the public attending the meeting are able to hear any member of the public body who speaks during the meeting.

SECTION 15. The prior open meeting RESOLUTION, 2019-22, adopted and amended on July 23, 2019 is hereby repealed.

APPROVED IN OPEN MEETING THIS 13th DAY OF JANUARY 2020.

COLFAX COUNTY BOARD OF COMMISSIONERS

CHAIRMAN

VICE-CHAIRMAN

MEMBER

ATTEST:


Rayetta M. Trujillo, CLERK OF THE BOARD

