



**Board Meeting Policy Template
(including an Electronic Meeting Policy)**

Prepared for

**The adoption and use of Special and Special Service Districts
in Utah in consultation with their legal counsel**

**Prepared by
The Utah Association of Special Districts**

November 9, 2023 Update

(insert the district's name)

BOARD MEETING POLICY

A. BACKGROUND

1. **Policy:** These rules shall be known as the _____ (the “District”) Board Meeting Policy (the “Policy”).

2. **Purpose:** The Policy establishes guidelines for meetings of the District legislative body (the “Board”), including how meetings are to be convened, how they are to be conducted, and how minutes are to be prepared and approved.

B. COMPLIANCE WITH STATE LAW

1. **Application of the Open and Public Meetings Act:** In adopting the Policy, the District recognizes the application of the Open and Public Meetings Act, UTAH CODE ANN. §§ 52-4-101 *et. seq.*, as it may be modified, amended, superseded or replaced from time-to-time (the “Act”). Any inconsistency or conflict between this Policy and applicable provisions of the Act shall be governed by the Act.

2. **Definitions:** The definitions stated in UTAH CODE ANN. § 52-4-103 are incorporated herein by reference.

C. MEETING NOTICE AND AGENDA

1. **Required Annual Notice:** The District Board will, either shortly prior to or at the beginning of each calendar year, establish an annual meeting schedule, including the date, time and location of each regular Board meeting through the year, and give public notice of the annual meeting schedule as required by law. Notwithstanding the foregoing, any meeting may be rescheduled at the request or on the affirmative vote of a majority of the Board Members, with notice of the rescheduled meeting to be provided as stated in section C.4 of this Policy.

2. **Special and Emergency Meetings:** The Board may hold special and emergency meetings, provided that they are properly called and notice of every such meeting is given as provided in section C.4 of this Policy. No emergency meeting of the Board may be held unless an attempt has been made to notify all of the members of the Board and a majority of the Board Members approve holding the meeting. A special meeting of the Board may be called by the Chair and an emergency meeting may be called either by the Chair or by the Chief Administrative Officer of the District (the “Manager”). Any Board Member or the Manager may request that a special meeting of the Board be held, but the approval of the Chair will be

required. In the absence of the Chair, the Vice Chair may call or approve either a special meeting or an emergency meeting of the Board. In the absence of the Manager, any person designated by the Manager may call an emergency meeting of the Board. If, due to unforeseen circumstances, it is necessary for the Board to hold an emergency meeting to consider matters of an emergency or urgent nature, and they are unable to meet in person, the Board may meet via electronic communication, in compliance with the electronic meeting policy in section D.8 of this Policy.

3. **Agenda:** An agenda shall be prepared for every meeting of the Board. Each topic to be considered by the Board shall be listed with reasonable specificity as an agenda item. Any Board meeting agenda may include a “public comment,” or its functional equivalent, agenda item and, and at the discretion of the Board Member who is chairing the meeting, any topic raised by a member of the public may be discussed, even if it is not listed as an agenda item. Each agenda will include topics as requested by any Board Member or the Manager. Topics may be identified in the agenda using general references. For example, an agenda reference to “Personnel” or “Personnel Matters” will enable the Board to discuss, consider and act upon any personnel matters, decisions or issues that are brought up during the meeting.

4. **Notice:** Not less than 24 hours’ advance public notice, including the agenda, date, time and location, will be given as a class A notice under UTAH CODE ANN. § 63-G-30-102(1) for each regular and special meeting of the Board by: (a) publishing the notice on the Utah Public Notice Website created under UTAH CODE ANN. § 63A-16-601; (b) publishing the notice on the District’s or the Board’s official website, if the District or the Board maintains an official website and has an annual operating budget of \$250,000 or more; and (c) posting the public notice in a public location in or near the District that is likely to be seen by residents of the District or, if there are no residents within the District, individuals who pass through or near the District. The requirement that the public notice be posted in a public location within the District may be satisfied by posting the notice in, on, or near the anchor location for the Board meeting or the structure or other area where the meeting will be held. If, due to unforeseen circumstances, it is necessary for the Board to hold an emergency meeting to consider matters of an emergency or urgent nature, the foregoing notice requirements may be disregarded and the best notice practicable may be given. These notice requirements are minimum requirements and are not to be construed as precluding such additional postings and notifications as may be directed by the Board and, in any event, it is recommended that the written notice be posted at the principal office of the District or, if there is no principal office, at the building where the meeting is to be held. If any Board Member will participate in the meeting through electronic means, in addition to the notice requirements stated above, the notice requirements of UTAH CODE ANN. § 52-4-207(3) must be satisfied, including providing notice to all Board Members at least 24 hours before the meeting and including in all meeting notices a description of how the Board Members will be connected to the electronic meeting and posting written notice at the anchor location, which is the physical location from which the electronic meeting originates or the participants are connected, if there is an anchor location.

5. **Amendments to Agenda:** The agenda of a meeting of the Board may be amended to include additional subjects at the request of any Board Member, even though notice of the meeting has already been given as provided in section 4 immediately above, if the amended notice is posted and given in accordance with the requirements of section 4 at least 24 hours before the scheduled time of the meeting.

D. CONDUCT OF MEETINGS

1. **Quorum**: No action may be taken and no business may be conducted at a meeting of the Board unless a quorum, consisting of a simple majority of the members or statutory voting power of the Board is present. A Board Member who is not physically present may nevertheless participate in the meeting through electronic means and be counted toward the required quorum in accordance with UTAH CODE ANN. § 52-4-207. Any Board Member participating via electronic means may make, second and vote on all motions and participate in the discussion as though physically present, except that the Board Member who chairs the meeting must be present at the anchor location unless there is no anchor location as allowed under UTAH CODE ANN. § 52-4-207(5).

2. **Control of the Meeting**: Unless the Chair or Vice-Chair, as appropriate, is participating in the meeting via electronic communication or both the Chair and Vice-Chair are absent, each meeting of the Board will be conducted by the Chair, if present, or by the Vice-Chair in the absence of the Chair. If neither the Chair nor the Vice Chair is physically present (but a quorum is present) a Board Member who is physically present at the anchor location will preside over the meeting with the consent of the Board Member(s) who are physically present at that location. The Board Member chairing the meeting may relinquish the chair to the next Board Member in succession, other than a Board Member participating via electronic communication, at any time during the meeting. The Board Member chairing the meeting may discuss every matter coming before the Board, make, second and vote on motions, and otherwise fully participate in the meeting.

3. **Public Participation**: Time for public comment may, in the discretion of the Chair, be allowed at any meeting of the Board in accordance with the following:

- a. Each speaker will be expected to state his or her name and address before directing comments to the Board.
- b. The public comment portion of a meeting is not a question and answer session. Rather, it is intended to enable the Board to receive testimony and input from the public. Any member of the public who has questions regarding any aspect of the District's operations is encouraged to contact the Manager or an appropriate staff member outside of the meeting, including staying after the meeting has been adjourned.
- c. The Board member chairing the meeting shall have discretion in allotting time to each speaker according to the circumstances including, but not limited to, the number of people desiring to speak and the amount of business to be conducted by the Board.

- d. Once a speaker has been informed that his or her allotted time is up, the speaker will be expected to finish the sentence and relinquish the floor. If the speaker wants to say more, the speaker may meet privately with staff and may also continue his or her remarks at the next Board meeting during which public comments are accepted.
- e. Speakers are encouraged to avoid repetition and, where a group is present, to designate a spokesperson to speak for the group. In the interest of economy and the orderly conduct of a meeting, the Board Member chairing the meeting may ask any speaker who is merely restating points if he or she has any new information for the Board. If the speaker does not have new information, the speaker may be asked to relinquish the floor to another speaker who has new information.
- f. A speaker wishing to address a particular line item on the meeting agenda should designate the agenda item being discussed at the beginning of the remarks. Comments regarding agenda items will take priority over the discussion of non-agenda items. Persons will, at the discretion of the Board Member chairing the meeting, be allowed to discuss any relevant matter during the public comment portion of a Board meeting, even if the matter is not otherwise identified as an agenda item.
- g. It is the intent that public comments generally be directed to the Board only during the public comment portion of the agenda, if there is one, or during a public hearing. Nevertheless, the Board Member chairing the meeting may, in his or her discretion, direct questions to experts in attendance and may allow brief public comment during the discussion of a specific agenda item.
- h. To encourage public comment on matters before the Board, signed letters and written statements that are short enough to be read aloud in three minutes or less may be read into the record during the public comment portion of a Board meeting provided, however, that the use of offensive, profane or vulgar language or personal attacks that impugn the character or integrity of an individual may not be read into the meeting record.

4. **Expulsion From a Meeting:** The right to attend and observe a public meeting does not include the right to otherwise participate in that meeting unless it is a public hearing. Public participation in District Board meetings is a privilege granted by the Board in the interest of open government, but is not a right. Any person who willfully disrupts a Board meeting to the extent that the orderly conduct of the meeting is seriously compromised may be removed from the meeting. Should the person refuse to leave the meeting when asked to do so by the Board

Member chairing the meeting, security personnel or law enforcement officials may be called to remove the person.

5. Closed Meetings: Except as otherwise provided in this section 5, all meetings of the Board are to be open to the public. A meeting, or a portion of a meeting, may be closed to the public upon the affirmative vote of two-thirds of the Board Members present at the meeting, provided that a quorum is then present. A meeting may be closed for any of the applicable reasons specified in UTAH CODE ANN. § 52-4-205(1) as follows:

- a. A discussion of the character, professional competence, or physical or mental health of an individual.
- b. Strategy sessions to discuss collective bargaining.
- c. Strategy sessions to discuss pending or reasonably imminent litigation.
- d. Strategy sessions to discuss the purchase, exchange, lease or sale of real property (including a water right or water shares) if public discussion of the transaction would disclose the appraisal or estimated value of the subject property or prevent the Board from completing the transaction on the best possible terms provided, however, that before the sale of real property may be discussed during a closed meeting, public notice that the property will be offered for sale must be given, and the terms of the sale must be publicly disclosed before the Board approves the sale.
- e. A discussion regarding the deployment of security personnel, devices or systems.
- f. Investigative proceedings regarding allegations of criminal misconduct.
- g. Deliberations of the Board acting in the capacity of a procurement evaluation committee, the procurement protest officer, or a procurement appeals panel.
- h. To consider information designated as a trade secret as necessary to properly conduct a procurement.
- i. To discuss information that, at the time, may not be disclosed to the public or a participant in the procurement process and the Board needs to review or discuss the information in order to properly fulfill its role and responsibilities in the procurement process.
- j. To consider a loan application, if public discussion of the loan application would disclose non-public personal financial information, a nonpublic trade secret, as

defined in UTAH CODE ANN. § 13-24-2, or non-public business financial information, the disclosure of which would reasonably be expected to result in unfair competitive injury to the person submitting the information.

6. Conduct of a Closed Meeting: The Board may not approve any ordinance, resolution, rule, regulation, contract or appointment or take any vote during a closed meeting except for a vote on a motion to end the closed portion of the meeting and return to an open meeting. In addition, the Board may not interview an individual who is applying to fill a vacant elected position or discuss filling a midterm Board vacancy or a temporary Board Member absence or discuss the character, professional competence or physical or mental health of an individual under consideration to fill a midterm Board vacancy or temporary absence during a closed meeting. The identity of the specific person whose character, competence or physical or mental health is to be discussed, the identity of the parties to pending or reasonably imminent litigation, or the identity of property which the Board is considering purchasing, exchanging or leasing need not be stated in the motion to close the meeting or in the public portion of the meeting where such disclosure might infringe on the confidence necessary to fulfill the purpose of closing the meeting. Only the Board Members, and those individuals designated by the Board, may be present during a closed meeting.

7. Recording of Meetings: Unless the District's annual expenditures for all funding, excluding capital expenditures and debt service, are \$50,000 or less, the District is required to record all open Board meetings. Any other person in attendance may record all or any part of an open meeting, provided that the recording does not interfere with the conduct of the meeting. The District's recording of a meeting is to be maintained for such period of time as specified in the District's approved records retention schedule. If the District has not adopted its own records retention schedule, the records retention schedule established by State Archives for municipalities (or for special or special service districts, should State Archives approve a standard records retention schedule for such districts) shall apply to Board meeting recordings, after which time the recording may be erased or destroyed and any tape or other recording device may be reused. Where written minutes are not prepared, as is allowed for closed meetings, the recording shall be maintained indefinitely. Such recordings are to be maintained in or converted to a format that meets long-term records storage requirements. The recording of a meeting is to be a complete and unedited record from the commencement of the meeting through adjournment of the meeting. Recordings of closed meetings are to be separate from recordings of any open meeting or open portion of the meeting.

8. Electronic Meetings: The Board may, from time to time as desired, convene and conduct meetings in which one or more Board Members may attend and participate in the meeting through any electronic means by satisfying the requirements of UTAH CODE ANN. § 52-4-207.

- a. Except as otherwise provided by applicable law, one or more “anchor locations” must be established for all electronic meetings. The anchor location is the physical location from which the electronic meeting originates or from which the participants are connected. If there is a physical anchor location, at least one anchor location for an electronic meeting must be in the building where the Board would normally meet if not holding an electronic meeting, unless an emergency situation precludes a meeting from being held at that location.
- b. Except as otherwise allowed by applicable law, public notice must be given of each electronic meeting as provided in section C.4 by providing a class A notice as provided in UTAH CODE ANN. § 63G-30-102(1) and, in addition, by posting the written notice at the anchor location, if there is one. In addition, notice must also be given to all Board Members at least 24 hours before the meeting, including a description of how Board Members may electronically connect to the meeting. Space and facilities must be provided at the anchor location(s), and/or via electronic means, so that all interested persons may attend and/or monitor, in person or electronically, the open portions of the meeting. If members of the public will be allowed to monitor or participate in a Board meeting, the meeting notice will include a description of how members of the public may electronically connect to the meeting. In addition, if the meeting is a public hearing, space and facilities must be provided at the anchor location(s) and/or via electronic means so that interested persons and the public may attend, monitor and participate in the hearing. Notwithstanding anything to the contrary in this Policy, the Chair, or the Vice-Chair in the Chair’s absence, may determine, based upon budget or logistical considerations, that it is not in the best interest of the District to hold an electronic meeting, in which event the meeting will not be held as an electronic meeting.
- c. A quorum of the Board need not be present at a single anchor location for an electronic meeting to be held. As few as one Board Member may be present at the anchor location, if there is a physical anchor location, provided that all other requirements of this Policy and of UTAH CODE ANN. § 52-4-207 are satisfied, for a meeting to be held as an electronic meeting provided that the Board Member who chairs the meeting is physically present at the anchor location, if there is a physical anchor location. The Chair, or the Vice-Chair in the Chair’s absence, may also restrict the number of separate electronic connections that are allowed for an electronic meeting based on available equipment capacity.
- d. The primary purpose for holding an electronic meeting is to enable members of the Board to participate in the meeting electronically and, provided there is a physical anchor location that is open to the public, arrangements may or may not be made to enable a member of the public to connect to the Board meeting electronically, in the discretion of the District. Notwithstanding anything to the contrary in this Policy, with the exception of a public hearing, the general public

and other interested persons may or may not be permitted to speak or present their views electronically at the discretion of the Board Member who chairs the meeting. Members of the public and the news media may attend, monitor and, where appropriate, participate in the public portion of any electronic meeting conducted by the Board at any anchor location, if there is a physical anchor location, and appropriate space and facilities shall be made available at each anchor location, if any, to accommodate the same. Notwithstanding the foregoing, if there is no anchor location that is available to the public, as governed by UTAH CODE ANN § 52-4-207(5), electronic means will be provided for members of the public and the media to monitor open portions of the electronic Board meeting and instructions concerning how to access the electronic Board meeting will be included as part of the meeting notice and agenda.

- e. A Board meeting may be held without an anchor location, as provided in UTAH CODE ANN. § 52-4-207(5), based on a determination of the Board Chair that conducting a meeting with an anchor location presents a substantial risk to the health or safety of those present, or who would otherwise be present, at the anchor location, or the location where the Board would normally meet has been ordered closed to the public for health or safety reasons, and the public notice for the meeting includes a statement describing the Chair's determination and a summary of the facts upon which the Chair's determination is based and information describing how a member of the public may attend the meeting remotely via electronic means. The Chair may also close a Board meeting during the course of the meeting based on substantial health or safety concerns as provided in UTAH CODE ANN. § 52-4-207(5)(b). The District may also hold a Board meeting without an anchor location if one or more members of the Board qualify to be on the Board as an owner of land or as an agent or officer of the owner of land, as opposed to being a registered voter who resides within the District, as provided in UTAH CODE ANN. § 52-4-207(5)(c) or (d), provided that the public notice for the electronic meeting includes information concerning how members of the Board and members of the public may attend the meeting remotely by electronic means.
- f. Except for a unanimous vote, all votes during an electronic Board meeting shall be taken by roll call.
- g. In the event that an applicable state law, rule or regulation conflicts with this section 8, the law, rule or regulation shall control.

E. MINUTES AND RECORDINGS

1. **Open Meetings:** Written minutes and a digital or tape recording shall be kept of all open meetings of the Board. Draft minutes shall be prepared by the person designated by the

Board. The written minutes are to include the date, time and place of the meeting; the names of Board Members present and absent; the substance of all matters proposed, discussed or decided; a record of the individual votes taken; the names of each person who is not a member of the Board and, after being recognized by the Chair, provided testimony or comments, and the substance in brief of their testimony or comments (this requirement may be contingent upon the person testifying identifying himself or herself for the record); and any other information that is a record of the proceedings that any Board Member requests be entered in the minutes or recording. The written minutes will record, by individual Board Member, each vote taken during an open Board meeting. If the Board includes elected members, each vote must be recorded in list format by name for all yes votes, no votes, and absent Board Members. The recording is to be a complete and unedited record of the meeting from its commencement through adjournment. Pending Board meeting minutes and the recording of the meeting are public records which will be available for inspection by the public. Pending minutes, which will be marked “draft” or otherwise contain a clear indication that the Board has not yet approved the minutes, will be made available to the public upon request and during normal business hours within a reasonable time after the meeting. Within three business days after the meeting, an audio recording of the meeting will be available to the public for listening. Even though open meetings are to be recorded, the written minutes, once approved by the Board, shall be the official record of action taken during the meeting.

2. Closed Meetings: The reason or reasons for holding a closed meeting, the location where the closed meeting will be held, and the vote of the Board Members, cast by each member by name, either for or against the proposition to close the meeting, is to be publicly announced and entered in the minutes of the open portion of the meeting.

3. Sworn Statement: If the Board closes a meeting exclusively to discuss the character, professional competence or physical or mental health of an individual or to discuss the deployment of security personnel, devices or systems, the person presiding at the closed meeting shall sign a sworn statement affirming that the sole purpose for closing the meeting was to discuss (a) the character, professional competence or physical or mental health of one or more individuals; or (b) the deployment of security personnel, devices or systems. Notwithstanding anything to the contrary in this Policy, neither a recording nor written minutes are required for a closed meeting that satisfies the requirements of this section 3. A sample Affidavit is attached to this Policy as Attachment “A”.

4. **Recording of a Closed Meeting:** If the Board closes a meeting for any purpose other than as specified in section 3 immediately above, the closed portion of the meeting must be recorded and the recording must be safeguarded. The recording of a closed meeting is to be complete and unedited from the commencement of the closed meeting through adjournment of the closed meeting. While a recording of the closed meeting may be required, written minutes of the closed meeting are not mandatory. The recording and any minutes of a closed meeting are to include the date, time and place of the meeting; the names of Board Members present and absent; and the names of all others present except where the disclosure would infringe on the confidentiality necessary to fulfill the original purpose of closing the meeting. Recordings of a closed meeting should be maintained in or converted to a format that meets long-term records storage requirements. Notwithstanding anything to the contrary in this Policy, in the Records (GRAMA) Policy of the District, or in the Government Records Access and Management Act, UTAH CODE ANN. §§ 63G-2-101 *et. seq.* (“GRAMA”), recordings and written minutes of closed meetings are protected records to be disclosed only pursuant to a court order as provided in UTAH CODE ANN. § 52-4-304. Recorded and written minutes (if maintained) of a closed meeting or a closed portion of a meeting shall be maintained separately from any open meeting recording or minutes. Any Board Member who violates the Act regarding the protected status of such recordings or minutes may be subject to criminal penalties.

5. **Approval of Minutes:** Minutes are not “official” until they have formally been approved by the Board. With the exception of minutes that are “protected” as provided in section 4 immediately above, all minutes shall be posted and be available for review and public inspection within three business days after the Board approves the minutes.

6. **Required Posting** An individual who, at an open meeting of the Board, publicly presents or provides electronic information relating to an item on the meeting agenda, will be required to provide, at that time, an electronic or hard copy of the electronic information for inclusion in the public record. Within three business days after the written minutes of an open meeting are approved by the Board, the District will post to the Utah Public Notice Website a copy of the approved minutes and any public materials distributed at the meeting; make the approved minutes and public materials available to the public at the District’s primary office; and if the Board provides online minutes, post the approved minutes and any public materials distributed at the Board meeting on the District’s website. In the alternative, instead of posting the approved minutes and public materials on the Utah Public Notice Website, the District may post to the Utah Public Website a link to a website on which the approved minutes and any public materials distributed at the meeting are posted.

7. **Site Visits:** Notwithstanding any contrary requirement in this Policy, a recording is not required to be kept of an open meeting that is a site visit or a traveling tour provided that no vote or action is taken by the Board.

F. ANNUAL TRAINING

The Board Chair is responsible, under UTAH CODE ANN. § 52-4-104, to ensure that Board Members are provided annual training on the requirements of the Open and Public Meetings Act. The training may be “in-house” or may be satisfied through attending the annual convention of the Utah Association of Special Districts or other training provided by the Association or by the office of the State Auditor or by the Association and the State Auditor acting jointly, or by attending any other qualifying training approved by the Chair.

G. APPLICATION OF THE POLICY

Neither this Policy nor the Act shall apply to any chance meeting or social meeting of any Board Members provided, however, that such chance meeting or social meeting shall not be used to circumvent this Policy. Similarly, any number of Board Members not constituting a quorum may meet and may discuss District business. Otherwise, this Policy shall apply to all regular, special and emergency meetings of the Board.

Approved by the legislative body of the District on the _____ day of _____ ,
20____.

Title: _____

ATTACHMENT "A"
CLOSED MEETING AFFIDAVIT

STATE OF UTAH)
 :SS.
COUNTY OF _____)

Having first been duly sworn, comes now _____, who deposes, states and affirms as follows:

I am a duly elected or appointed member of the legislative body (the "Board") of the _____ (the "District").

A meeting of the District Board was held on _____, 20__.

I presided over the District Board meeting.

During the course of the meeting, upon the affirmative vote of at least two-thirds of the Board members in attendance, a quorum being present, the meeting was closed for the sole purpose of discussing: (Please check appropriate box(es) This Affidavit may not be used in place of a recording if any other subject is discussed..)

- ☐ the character, professional competence, or physical or mental health of one or more individuals; and/or
- ☐ the deployment of security personnel, devices or systems.

Further Affiant sayeth naught.

Signature

SUBSCRIBED AND SWORN to before me this _____ day of _____, 20__.

Notary Public

BOARD MEETING POLICY

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