

BOARD/COMMISSIONER TRAINING 101

Benton County Solid Waste
Commission
May 1, 2018

TONIGHT'S SESSION

- Legal Requirements
 - Doing What Is Right
 - Enhancing Board Effectiveness
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LEGAL REQUIREMENTS

- Open Meetings Law (abbreviated)
 - Public Records Law
 - Gender Balance Law
 - Gift Law
 - Conflict-of-Interest Law
 - Public Bidding Laws
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OPEN MEETINGS LAW (CH.21)

- Applies to meetings of:
 - Multi-member board created by 1 or more governing bodies
 - Advisory boards, commissions or task forces created by political subdivision to develop & make recommendations on public policy issues
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OPEN MEETINGS LAW (CH.21)

- ❑ Applies no matter where meeting is held
 - ❑ Applies whether “formal” or “informal” meeting
 - ❑ Applies whenever quorum is present & considering official business
 - ❑ Ambiguity resolved in favor of openness
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OPEN MEETINGS LAW

- Agendas
 - Posting requirements
 - Minutes
 - Electronic meetings
 - Warren County case
 - Consult your attorney!
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EXCEPTIONS (EXECUTIVE/ CLOSED SESSIONS) – 21.5

- Evaluation of professional competency of indiv to be hired, evaluated, terminated - only if indiv requests exec session
 - Litigation – present or likely – to discuss strategy w legal counsel
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EXCEPTIONS (EXECUTIVE SESSIONS) – 21.5 OF CODE

- Stick to purpose of closed session
 - **FINAL ACTION MUST BE TAKEN IN OPEN SESSION**
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VIOLATIONS OF THE OPEN MEETINGS LAW

- ❑ Members who participate in a violation subject to \$100 – 500 fine
 - ❑ Iowa Law: members who **knowingly** participate in a violation: \$1,000 - \$2,500
 - ❑ Fines may not be paid by the local govt
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PUBLIC RECORDS LAW

(CH 22)

- ❑ All persons – including non-residents – have the right to examine your public records during business hours without charge.
 - ❑ Records = documents, tapes, electronic media
 - ❑ Right to obtain copies for a reasonable cost
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“CONFIDENTIAL RECORDS” – CH. 22.7

- Attorney-client privilege
 - Law enforcement info
 - Confidential personnel records
 - Tentative, preliminary, draft or research materials prior to final completion
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“CONFIDENTIAL RECORDS” – CH. 22.7

- Physical/critical infrastructure
 - Cyber-security
 - CONSULT YOUR ATTORNEY**
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VIOLATIONS OF THE PUBLIC RECORDS LAW

- ❑ Members who participate in a violation subject to \$100 – 500 fine
 - ❑ Members who **knowingly** participate in a violation: \$1,000 - \$2,500
 - ❑ Fines may not be paid by the local govt
 - ❑ Consult your attorney!
-

IOWA PUBLIC INFORMATION BOARD - RESPONSIBILITIES

- ❑ Rule-making & enforcement authority over Chapters 21 & 22 (Open Meetings & Public Records laws)
 - ❑ Investigate complaints, request and review records, determine facts, issue subpoenas & hold contested case proceedings
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IOWA PUBLIC INFORMATION BOARD - RESPONSIBILITIES

- ❑ Impose penalties for violations of open meetings/public records laws – increased fines for elected officials who knowingly or willfully violate the laws
 - ❑ Issue advisory opinions when requested
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GENDER BALANCE LAW – CH. 69.119A(2)

- All appointed boards, commissions, committees of a political subdivision established by the Code shall be gender balanced.
 - Use a fair and unbiased method of selecting the best qualified applicant.
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GENDER BALANCE - UNLESS

- Good faith effort to appoint a qualified person to fill a vacancy for a period of three months and unable to make a compliant appointment.
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IOWA CODE– CH. 68B.22

A public official, public employee, candidate, or that person's immediate family, shall not directly or indirectly accept or receive any gift or series of gifts from a restricted donor.

GIFT LAW – CH. 68B

- Govt officials – officers or employees
– not allowed to accept any gift of more than \$3.00 per day from **restricted donors.**
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RESTRICTED DONORS

- ❑ Those doing business or seeking to do business w govt org
 - ❑ Those engaged in activities regulated or controlled by govt org
 - ❑ Those who could be directly and substantially financially affected (greater than the public's interest) by donee's performance or non-perf.
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EXCEPTIONS

- Campaign contributions
 - Informational materials – books, reports, documents, etc.
 - Gifts from relatives
 - Anything distributed to general public
 - Food, lodging, travel for speaking
 - Items as part of conferences
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OTHERWISE

- Non-monetary items with value of \$3.00 or less from any one donor during one calendar day
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INTEREST IN PUBLIC CONTRACTS – CH. 362.5

- Govt officers or employees shall not have an interest, direct or indirect, in any contractor job of work performed for the same city served.
 - Code provides 13 exceptions:
 - Contracts competitively bid in writing, publicly invited and opened.
 - Small city/small purchase exception
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CONFLICT-OF INTEREST – VOTING

- Publicly disclose any conflict-of-interest
 - Refrain from taking any official action or performing any official duty
 - Most conflicts due to direct financial gain – but may also be perceived
 - Questions? – consult your attorney
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BIDDING LAWS – PUBLIC IMPROVEMENTS - 28E ORGS

- Code of Iowa – Public Improvement = A bldg. or construction work constructed under the control of a govt entity and is paid for in whole or in part with funds of the govt entity
 - “Govt entity” = state, pol. Subdiv., public school, & all officers, boards or commissions empowered by law to enter into contracts for construction of public improvements (except Bd of regents & IDOT)
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BIDDING PROCEDURES – IN VERY GENERAL TERMS

- 2 sets of construction procedures:
 - Vertical infrastructure – buildings, san & storm sewers, water distrib systems, parks facilities
 - Horizontal infrastructure – streets, bridges, culverts
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BIDDING PROCEDURES – IN VERY GENERAL TERMS

- Vertical infrastructure – must follow competitive bidding procedures if estimated cost of project exceeds certain \$ limits (cities \$135,000)
 - If < \$135K but more than a lower dollar “competitive quotation threshold” depending on population (28E???) – can use competitive quotations
 - If under CQT, or using your staff, don’t need to follow bidding or quotation sys.
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BIDDING PROCEDURES – IN VERY GENERAL TERMS

- Questions - Consult your attorney and consult your engineer!!!
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DOING WHAT IS RIGHT – BOARD DUTIES AND RESPONSIBILITIES

- ❑ Comply with requirements of Iowa Code, 28E Agreements, By-laws, etc.
 - ❑ Set policies – consistent w requirements
 - Develop governing policies for the org.
 - Ensure policies are followed and reviewed
 - ❑ Identify goals and objectives to be accomplished
 - ❑ Describe results to be achieved
 - Short-range; long-range
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DOING WHAT IS RIGHT – DUTIES AND RESPONSIBILITIES

□ Monitor activities

- Comply with legal requirements – local, state, federal
 - Personnel oversight
 - Evaluate services, programs, activities, projects
 - Fiduciary responsibility
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POLICY/PROGRAM EVALUATION – Key Questions

- Are goals/results being achieved as intended?
 - What are the specific reasons for program/policy success or failure?
 - What adjustments should be made to improve the policy or program – or should it be terminated?
 - Are scarce organizational resources being effectively and efficiently used?
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Six strategies to improve performance (reverse order)

- Work toward Board improvement
 - Exercise appropriate authority
 - Connect to community
 - Enhance teamwork
 - Improve decision-making
 - Act strategically
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Board Improvement

- Take advantage of educational/development opportunities
 - Cultivate leadership
 - Obtain feedback on performance
 - Obtain assistance as needed
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Appropriate authority

- ❑ Act in accordance with defined roles
 - ❑ Build teams: w/electeds; with staff
 - ❑ Make clear the relationship between the Board/Comm – Staff - elected
 - ❑ Emphasize mutual expectations and performance assessment
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HUMAN RESOURCES ADMIN

- Ensure that personnel policies and procedures are equitable, legal and current; ensure practices are adequate to accomplish objectives
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HUMAN RESOURCES ADMIN

Elements/Practices:

- Chain-of-Command
 - Personnel Policies
 - Job Descriptions
 - Safety
 - Workforce Planning
 - Training
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IMPORTANT LAWS

- ❑ Chapter 20 - Public Employment Law
 - ❑ Chapter 400 - Civil Service
 - ❑ Fair Labor Standards Act
 - ❑ Civil Rights Acts - Fed & State
 - ❑ Veterans Preference Laws
 - ❑ Military Leave
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OTHER IMPORTANT LAWS

- ADA
 - FMLA
 - OSHA
 - HIPAA
 - ADEA
 - ACA
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Community connection

- Obtain input
 - Explain actions
 - Facilitate information flow
 - Don't forget to connect to the internal community
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Teamwork

- ❑ Teamwork > functioning cohesively as a group
 - ❑ Make clear that Board & staff are working together to achieve common objectives
(Acting strategically)
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Teamwork

- ❑ Participate with commitment – invest time & effort to review materials & participate in meetings
 - ❑ Share information among all Board Members
 - ❑ Develop and use effective processes for handling common issues:
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Processes - examples

- Agenda development
 - Meeting management – rules of order
 - Information flow – meeting packets
 - Complaint handling
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Processes

- Contacting /making requests/ giving directions to staff – without disrupting operations
 - Financial monitoring & reports
 - Performance reviews
 - Board orientation
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Board Orientation

- History
 - Mission/Ordinance/Bylaws
 - Legal Requirements
 - Key programs, activities
 - Recent accomplishments/ongoing projects
 - Planning documents
 - Tour
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Rules of Procedure - Parliamentary Procedure

- Have you adopted Rules of Procedure? Robert's Rules? Which edition? Something else?
 - Are they on hand?
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Rules of Procedure - Parliamentary Procedure

- Decision-making begins with a motion
 - Typically before discussion
 - The need for a “second”
 - All motions should be dispensed with:
 - Voted on
 - Amended and then voted on
 - Withdrawn
 - Tabled
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Rules of Procedure - Parliamentary Procedure – Other Common Issues

- Calling for the vote/question
 - Tabling the motion
 - Voting ends debate
 - Motion to reconsider
 - Some motions debatable, others non-debatable
 - Abstaining from a vote
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Decision-making

- Access and use relevant information
 - From multiple sources, including staff & community
 - Staff – Factual, objective, provide relevant info, identify alternatives, facilitate the process
 - Provide info to all Board members
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Decision-making

- Deliberate discussions
 - Agree on the way decisions should be made
 - Objective, open, systematic
 - Frame issues, consider information, consider context
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Decision-making

- Give adequate time for decision-making
 - Avoid forcing decisions prematurely
 - Recognize schedules and timing but don't break off discussion prematurely – despite pressure for action
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Decision-making

- Put aside personal differences – consider without prejudice the particular situation or issue
 - Hear all sides
 - Consider alternatives
 - Honest & forthright exchange of opinions
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Decision-making

- ❑ Reach decision even without consensus
 - Not possible to reach consensus on every issue
 - Agree that the problem deserves a solution
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Decision-making

- ❑ Support decisions unanimously – regardless of your own views.
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Act strategically

- Address critical issues
 - Identify priorities
 - Develop Action Plan to accomplish priorities
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Act strategically

Budget

Annual Work Program

Specific project planning

Goal-setting

Action Plan

Strategic Planning

QUESTIONS TO ASK YOURSELVES AS BD MEMBERS

- Do we have a good understanding of the programs/activities offered by our agency, how they function, and the results that are achieved?
 - Are there parts of the Board's job that we don't understand?
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QUESTIONS TO ASK YOURSELVES

- Do we have regular planning sessions?
 - Do we establish and understand our priorities?
 - DO WE ASK QUESTIONS???**
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