

**JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA REQUEST

TO: Board of County Commissioners

**FROM: Philip Hunsucker
Chief Civil Deputy Prosecuting Attorney**

DATE: October 24, 2022

SUBJECT: WORKSHOP re: Open Public Meetings Act (OPMA) Guidelines for Boards and Commissions and Committees; and, ADDITIONAL PUBLIC COMMENT

STATEMENT OF ISSUE:

Staff created a set of draft guidelines (Draft Guidelines) to ensure that all of Jefferson County Boards, Commissions and Committees maintain compliance with the Washington Open Public Meetings Act (OPMA), Chapter 42.30 RCW. The draft guidelines create uniform processes and provide practical advice for complying with OPMA. The Draft Guidelines were reviewed with the Board on July 18, 2022. A written public comment and an oral public comment were received on July 18, 2022. The Draft Guidelines were again reviewed with the Board on July 25, 2022, where three questions were presented to the Board for input:

1. Public Comment: How much additional Public Comment should be required?
2. Hearings: Should BOCC establish County standards for hearings?
3. Roberts Rules of Order for Small Boards: Should this be required?

The Board discussed the Draft Guidelines and took public comment. Two persons provided oral public comments. One written public comment was sent to the Board on July 21, 2022. Then, the Board directed staff to make revisions to the Draft Guidelines and obtain comments from staff who facilitate County Boards, Commissions and Committees, Electeds and Department Heads.

Based on the discussion with the Board and the public comments, the Draft Guidelines were revised and a new draft was sent to staff who facilitate County Boards, Commissions and Committees, Electeds and Department Heads, requesting comments by September 15, 2022. One general comment from staff who facilitates a County Boards was received—that staff person thought the Draft Guidelines were helpful.

Another workshop on the Draft Guidelines was held on October 10, 2022. Public comments were received. The Board directed staff to make additional changes to the Draft Guidelines.

A copy of the revised Draft Guidelines intended to address the additional public comments and direction from the Board is attached as Appendix A. A draft resolution adopting the Draft Guidelines is attached as Appendix B.

ANALYSIS:

It is the intention and requirement of Jefferson County that OPMA be followed by every Board, Commission or Committee subject to OPMA. This is necessary for transparent government which engenders the greatest public support. While these guidelines are intended to enhance compliance with OPMA in Jefferson County, OPMA always controls if there is any inconsistency between these guidelines and OPMA. Failure to follow OPMA can have significant consequences, including personal liability for Board and Committee members for violations and voiding any action taken at a meeting that violates OPMA.

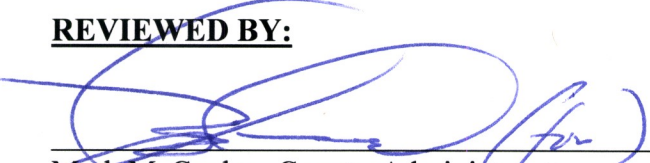
FISCAL IMPACT:

None, other than staff time. Once adopted, training on the guidelines will be necessary. Adopted guidelines will increase uniform compliance with OPMA, reduce risk and reduce uncertainty about how to comply with OPMA.

RECOMMENDATION:

Review the attached Draft OPMA Guidelines for County Boards, Commissions and Committees and draft resolution adopting them and take action or direct Staff to make additional changes.

REVIEWED BY:



Mark McCauley, County Administrator
Date

**STATE OF WASHINGTON
COUNTY OF JEFFERSON**

In the Matter of Adopting Open Public Meeting
Act Guidelines For Jefferson County Boards,
Commissions & Committees

RESOLUTION NO. _____

WHEREAS, the Washington Legislature recently adopted changes to the Washington Open Public Meetings Act (OPMA), Chapter 42.30 RCW; and,

WHEREAS, the significant changes to OPMA, Chapter 42.30 RCW involve mandatory public comments before any decision can be made and the requirement of a physical location for open public meetings, unless there is a declared emergency; and,

WHEREAS, the Board of County Commissioners directed Staff to create a set of draft guidelines (Draft Guidelines) to ensure that all of Jefferson County Boards, Commissions and Committees maintain compliance with OPMA; and,

WHEREAS, Staff prepared Draft Guidelines, the Board of County Commissioners received public comments on the Draft Guidelines and conducted several workshops on the Guidelines, resulting in positive changes to the Draft Guidelines; and,

NOW, THEREFORE, BE IT RESOLVED, by the Board of Jefferson County Commissioners that:

1. The Open Public Meeting Act Guidelines For Jefferson County Boards, Commissions & Committees attached as Appendix A is hereby adopted; and
2. A schedule of training on the Open Public Meeting Act Guidelines For Jefferson County Boards, Commissions & Committees for all members and employees who staff Jefferson County Boards, Commissions and Committees and shall be prepared and implemented by Board staff; and,
3. This Resolution shall be effective upon adoption.

(SIGNATURES FOLLOW ON THE NEXT PAGE)

APPROVED AND ADOPTED this _____ day of _____, 2022.

SEAL:

JEFFERSON COUNTY
BOARD OF COMMISSIONERS

ATTEST:

Heidi Eisenhour, Chair

Greg Brotherton, Member

Carolyn Gallaway, CMC
Clerk of the Board

Kate Dean, Member

Approved as to form only:

Philip C. Hunsucker, Date
Chief Civil Deputy Prosecuting Attorney

APPENDIX A OPMA GUIDELINES FOR JEFFERSON COUNTY BOARDS, COMMISSIONS & COMMITTEES

Adopted on
October * 2022

Resolution No.:

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OPMA GUIDELINES FOR JEFFERSON COUNTY BOARDS, COMMISSIONS & COMMITTEES

I. COMPLIANCE WITH THE OPEN PUBLIC MEETINGS ACT REQUIRED

A. Purpose of these Guidelines.

These guidelines are intended to assist Jefferson County Boards, Commissions and Committees to maintain compliance with the Washington Open Public Meetings Act, Chapter [42.30](#) RCW (OPMA).

B. Important Provisions of OPMA.

1. The Will of the People Is Transparency. RCW [42.30.010](#) states:

The legislature finds and declares that all public commissions, boards, councils, committees, subcommittees, departments, divisions, offices, and all other public agencies of this state and subdivisions thereof exist to aid in the conduct of the people's business. It is the intent of this chapter that their actions be taken openly and that their deliberations be conducted openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed and informing the people's servants of their views so that they may retain control over the instruments they have created.

2. All Meetings of Public Agencies Must Be Open to the Public.

RCW [42.30.030](#) states, "All meetings of the governing body of a public agency shall be open and public and all persons shall be permitted to attend any meeting of the governing body of a public agency, except as otherwise provided in this chapter."

3. Every Ordinance, Resolution, Rule, Regulation, Order, or Directive of a Public Agency Must Be Adopted in an Open Public Meeting—No Secret Ballots.

RCW [42.30.060\(1\)](#) states, "No governing body of a public agency shall adopt any ordinance, resolution, rule, regulation, order, or directive, except in a meeting open to the public and then only at a meeting, the date of which is fixed by law or rule, or at a meeting of which notice has been given according to the provisions of this chapter. Any action taken at meetings failing to comply with the provisions of this subsection shall be null and void."

4. Public Comments.

RCW [42.30.230\(1\)](#) requires that a "governing body of a public agency shall provide an opportunity at or before every regular meeting at which final action is taken for public comment." "Final action" is a defined term in OPMA, but for purposes clarity, unless quoting OPMA, these Guidelines use the term decision.

5. **OPMA Compliance In All Respects Is Mandatory.**

It is the intention and requirement of Jefferson County that OPMA be followed by every Board, Commission or Committee subject to OPMA. This is necessary for transparent government which engenders the greatest public support.

C. OPMA Controls Over these Guidelines.

While these guidelines are intended to enhance compliance with OPMA in Jefferson County, OPMA always controls if there is any inconsistency between these guidelines and OPMA.

D. Significant Liability from Violation of OPMA.

Failure to follow OPMA can have significant consequences, including personal liability for Board and Committee members for violations and voiding any discussion or decision taken at a meeting that violates OPMA. *See Section XIII* of these Guidelines for details.

E. Ask the Prosecuting Attorney's Office Questions about OPMA Compliance.

Questions about OPMA compliance should be brought to the attention of the Prosecuting Attorney's Office.

II. JEFFERSON COUNTY BOARDS, COMMISSIONS AND COMMITTEES THAT ARE SUBJECT TO THE OPEN PUBLIC MEETINGS ACT

Most, if not all, meetings of Jefferson County Boards, Commissions and Committees are subject to OPMA. Any Board, Commission or Committee whose by-laws or other operating procedures require compliance with OPMA, must comply with OPMA. In addition, any Board, Commission or Committee that makes recommendation that must be considered by the Board of County Commissioners or the Board of Health is subject to OPMA. The following is a non-exclusive list of Jefferson County organizations subject to OPMA:

1. Behavioral Health Advisory Committee.
2. Board of County Commissioners.
3. Board of Health.
4. Budget Committee.
5. Canvassing Board.
6. Civil Service Commission.
7. Climate Action Committee.
8. Conservation Futures Citizen's Oversight Committee.
9. Developmental Disability Advisory Board.

10. Economic Development Council (EDC) Team Jefferson.
11. Elected Official/Department Director Quarterly Meeting.
12. Finance Committee.
13. Housing Fund Board.
14. Intergovernmental Collaborative Group.
15. Intergovernmental Coordination Committee.
16. Jefferson County/City of Port Townsend LEOFF I Retirement/Disability Board.
17. Lodging Tax Advisory Committee.
18. Marine Resources Committee.
19. Parks and Recreation Advisory Board
20. Planning Commission.
21. Public Infrastructure Fund Board.
22. Risk Management Committee.
23. Solid Waste Advisory Committee.
24. Tourism Coordinating Council.
25. Veteran's Advisory Board.

This list does not include separate public agencies to which a Jefferson County employee has been appointed or is a member. Those public agencies are responsible for their own OPMA compliance.

III. NOTICE

A. Notice for Every Open Public Meeting Is Required.

Notice must be given for any meeting subject to OPMA. For a regular meeting, notice can be given via a published schedule for an entire year. RCW [42.56.075](#). For special meetings, notice must be given in a particular way at least 24 hours in advance. RCW [42.56.080](#). This is discussed in greater detail below.

B. Notice Requirements for a Remote Meeting Without a Physical Location.

Notice of a remote meeting without a physical location or a meeting at which the physical attendance by some or all members of the public is limited due to a declared emergency must

be provided under OPMA and must include instructions on how the public may listen live to proceedings and on how the public may access any other electronic means of remote access offered by the public agency. RCW [42.30.230\(4\)](#).

IV. ~~PUBLIC COMMENT~~TESTIMONY REQUIREMENT

A. ~~Public Comment~~Testimony Is Required Before Making a Decision.

RCW [42.30.240\(1\)](#) requires that a “governing body of a public agency shall provide an opportunity at or before every regular meeting at which final action is taken for public comment.”

“Final action” means a collective positive or negative decision, or an actual vote by a majority of the members of a governing body when sitting as a body or entity, upon a motion, proposal, resolution, order, or ordinance. RCW [42.30.020](#).

B. ~~Public Comment~~Testimony May Be Oral or Written.

The public comment required under RCW [42.30.240](#) “may be taken orally at a public meeting, or by providing an opportunity for written testimony to be submitted before or at the meeting.” RCW [42.30.240\(2\)](#). These Guidelines use the term testimony throughout to refer to public comment, whether written or oral. Where necessary, a distinction is made between oral testimony and written testimony.¹

C. ~~Written Public Comment~~Testimony Must be Distributed Prior to Making a Decision.

If written ~~public comment~~testimony is accepted by the Board, Commission or Committee, this written testimony must be distributed to Board, Commission or Committee before making a decision. See RCW [42.30.240\(2\)](#).

D. A Reasonable Deadline for Written Testimony May Be Set.

The Board, Commission or Committee may set a reasonable deadline for the submission of written testimony before any meeting at which there is a potential for decision. RCW [42.30.240\(2\)](#). Written ~~public comment~~testimony received after the deadline in this Section IV.D. will not be included in the official record but will be ~~treated as public comment and~~² distributed to the Board Commission, or Committee.

E. Email Addresses and Links for Submission of Written ~~Public Comment~~Testimony.

Jefferson County shall provide each Jefferson County Board, Commission or Committee subject to OPMA an email address for submission of written ~~public comment~~testimony. Emails sent to the designated email address shall be monitored by staff to ensure that all written ~~public comment~~testimony on an item received by email shall be provided to the members of the Board, Commission or Committee before a decision is made on an item.

¹ Note: These sentences were added for clarity in order to explain the consistent use of terms.

² Note: Deleted as internally inconsistent.

Each Jefferson County Board, Commission or Committee subject to OPMA with a web page shall provide a link to the designated email address. Jefferson County also shall provide a link on its web page for ~~public comment~~written testimony for every Jefferson County Board, Commission or Committee subject to OPMA.

V. AGENDAS AND HEARING NOTICES

Well before any meeting subject to OPMA is held, the Chair and any staff supporting a Board, Commission or Committee must consider whether a hearing notice will be required for any hearing conducted.

For both regular meetings and special meetings, an agenda must be made available online at least 24 hours before the meeting. (RCW [42.30.077](#) (regular meetings) and RCW [42.30.080\(2\)](#) (special meetings).) Notice and publishing an agenda are separate OPMA requirements. RCW [42.30.077\(1\)](#).

A. Format of Agendas.

Agendas for Jefferson County Boards, Commissions and Committees should be uniform to format (*See the Agenda Form in [Appendix A](#)*).

B. Packet for Meeting. The packet for the meeting should be electronic and not paper. Materials to be discussed at the meeting should be made available on line at least 72 hours before the meeting.

C. 24-Hour Advance Notice Requirement.

An agenda must be posted on Jefferson County's website at least 24 hours before either a regular (RCW [42.30.077](#)) or a special meeting (RCW [42.30.080\(2\)](#)). Departments who staff meetings of Boards, Commissions and Committees may post an agenda on their own web page, but the agenda also must be posted on the County's calendar of meetings.

D. Content Requirements.

Whether for regular or special meetings, all agendas must (at minimum) include:

1. Date, time, and location of the meeting (include even if the meeting is only virtual).
2. Title of the meeting.
3. Type of meeting (regular or special).
4. Whether the meeting virtual, hybrid or in-person.
5. If virtual or hybrid, include information on how people can join the meeting.
6. If there is a meeting passcode, include the passcode on the agenda.

7. A deadline for submission of ~~written public comments~~written testimony for consideration by the Board, Commission or Committee before decision.
8. A time for public comment before any decision by the Board, Commission or Committee. RCW [42.30.240\(1\)](#).
9. “Potential Decision.” It is best practice that if there is a potential to decide on an item to add the term “Potential Decision” next to that agenda item. Adding “potential decision” alerts the public they may want to give public comment on that item.

E. Amending or Updating Agendas After Posting.

Agendas for regular meetings can be updated or changed after they are posted (RCW [42.30.077\(1\)](#)), even during the meeting, but agendas should be updated everywhere. Agendas for special meetings can be amended or changed, but only if at least 24-hours advance notice of the changed or updated agenda can be given. RCW [42.30.080\(2\)](#).

F. Physical Location Requirement.

There must be a physical location where the public can attend listed in the agenda, unless a local, state or federal emergency has been declared and there is a determination by the Governor or the Board of County Commissioners that public meetings cannot be held in-person due to the emergency. RCW [42.30.230](#).

This determination is made at the time of the meeting agenda or notice of hearing for the meeting is advertised. Check with staff in the Board of County Commissioners’ Office to determine whether in-person meetings have been prohibited.

A discussion of the notice requirements for a remote only meeting are in Section III.B. of this Guidance.

G. Requirement for a Cost Free Alternative for Participation Where Attendance is Limited or Prohibited.

If the meeting is held remotely or the public attendance is limited or prohibited, a cost-free option to attend in real-time, either by telephone or another readily available alternative, is required. RCW [42.30.230\(1\)](#).

H. ~~Public Comment~~Testimony Requirement.

Comply with all the requirements in Section IV of these Guidelines. Every agenda for every regular meeting must list a time for ~~public comment~~oral testimony before any decision is made. This can be at the beginning of the meeting or before an item is to be discussed. “Decision” means a collective positive or negative decision, or an actual vote by a majority of the members of a governing body when sitting as a body or entity, upon a motion, proposal, resolution, order, or ordinance. RCW [42.30.020\(3\)](#). Multiple public comment periods are allowed to permit more focused, topic-specific comments.

Allow a time for receipt of ~~public comment~~testimony before decision on any item in the agenda. If written ~~public comment~~testimony ~~are is~~ required or being considered, include information on the agenda on where the public can send their written ~~public comment~~testimony, give a deadline with a date and time, and provide a link on where the public can view ~~those comments~~the written testimony received. If receiving written ~~comment~~testimony, make sure the Board, Commission or Committee has time to review all ~~written comments~~written testimony before the start of the meeting. (See the Agenda Form in Appendix A).

VI. CONDUCT OF THE MEETING

A. Chair.

The Chair of the Board or Committee presides over all meetings where they are present. The Chair is appointed or elected by the members. At the first meeting of the year, there may be an election of officers for the year to depict Chair, Vice Chair, Secretary, etc.

B. Agenda Requirement.

An agenda posted at least 24 hours in advance is required for both regular and special meetings. Cancel any meeting if 24-hour notice was not given before the meeting.

C. Quorum Requirement.

A quorum of a Board or Committee is a majority of the members (RCW [42.30.020\(3\)](#)), unless otherwise stated in the Board or Committee's by-laws. Without a quorum the meeting cannot start or continue.

If no quorum exists, there are two choices: (1) the meeting can be cancelled by the Chair; or, (2) the Chair can wait to start the meeting until a quorum arrives.

If at any point during the meeting there ceases to be a quorum of the members, the Chair must adjourn the meeting promptly, citing a lack of quorum. If the Chair is not present, Clerk of the Meeting shall adjourn the meeting. For this Guidance, the term "Clerk of the meeting" means either a person appointed to be the Clerk of a Board, Commission or Committee or the staff person designated to support the Board, Commission or Committee.

D. Procedure for Cancelling or Rescheduling a Meeting.

To cancel a meeting, put a cancellation notice on the door (if in-person or hybrid), and post the cancellation on the County website.

Rescheduling a meeting before the next regular meeting makes the meeting a special meeting, requiring publication of a new 24-hours advance notice and an agenda.

E. Call to Order.

The meeting starts when the Chair calls the meeting to order.

F. Recording Open Public Meetings.

All open public meetings may be recorded into an audio file or video file.

Recordings must remain available online for 6 months (RCW [42.30.220](#)). Audio files and video files where recordings of open public meetings are stored shall be maintained consistent with the requirements for records retention in Chapter [40.14](#) RCW and Chapter [434-600](#) WAC.

G. Required Opportunity for Public Comments Testimony Requirement.³

Comply with all the requirements in Section IV of these Guidelines for oral or written ~~public comments~~ testimony.

H. Public Hearings.

1. Sometimes Public Hearings Are Required for Decisions by a Board, Commission or Committee.

Sometimes hearings are required on particular agenda items by a statute or ordinance. Although the public often may participate in public meetings, public participation in meetings is not required by state law. A public hearing primarily is intended to obtain ~~public~~ testimony ~~or comment~~ before significant decisions are made.

A public hearing can occur as part of a regular meeting or a special meeting. A public hearing must occur when due process is required, or when a specific statute or local regulation requires one.

A public hearing may be held when public input is desired on a sensitive or controversial policy issue.

In Jefferson County, most public hearings are held by the Board of County Commissioners, the Board of Health, or the Planning Commission, as required by statute or ordinance.

2. For Any Decision Required by a Board, Commission or Committee, Determine If a Public Hearing Is Required.

Always consult any applicable statute or ordinance related to the action being taking to determine if a hearing is required. MRSC has a booklet titled Local Ordinances for Washington Cities and Counties⁴ that contains a list of statutes where a hearing is required in its Appendix C. When in doubt whether a public hearing is required, consult the Prosecuting Attorney's Office.

³ Thiersch Comment: "I recommend replacing the word 'comments' with 'testimony'." Response: The Guidelines have been reworked to replace "comments" with "testimony" throughout. Where a distinction is necessary between oral testimony and written testimony, that distinction is made.

⁴ <https://mrsc.org/getmedia/44e20d0f-a536-473f-baac-bd7504323330/Local-Ordinances-For-Washington-Cities-And-Counties.pdf.aspx?ext=.pdf>, Accessed on June 23, 2022.

3. Jefferson County Policy on Public Hearings.

At a minimum, Jefferson County Boards, Commissions and Committees shall comply with any statute or ordinance requiring a hearing notice or written ~~public comment~~ testimony before decision.

For any ordinances proposed for adoption by the Jefferson County Board of Commissioners or the Jefferson County Board of Health, a hearing notice shall be published in the legal notices of Jefferson County's newspaper of record and on the Jefferson County web site at least once no less than 10 days before the hearing for an ordinance being considered. The Chair of the Jefferson County Board of Commissioners or the Jefferson County Board of Health may require publication of a hearing notice for an ordinance being considered by the Board twice in consecutive weeks and no less than 10 days before the hearing in the legal notices of Jefferson County's newspaper of record and on the Jefferson County web site, if the Chair determines there is significant public interest in the ordinance.

4. Required Contents for a Hearing Notice.

A hearing notice must contain the date and time and any deadline for submission of written ~~public comment~~ testimony. (See the Hearing Notice Form in Appendix B.)

I. Order of Discussing Items Listed at Specific Times on the Agenda.

If the agenda has a specific time listed for discussion of an item, the discussion cannot start on that topic until the specified time. Discussion of the topic can be later than the specified time. If the time specified for the next item on the agenda has not come yet, a recess can be called until the specified time for the next topic. Because of this limitation, it is best practice to not put times on specific items, unless required, as in a hearing notice.

J. Listing Recesses.

To put a recess in the meeting, the Chair can do so. A start time for the recess need not be in the agenda.

K. List Key Topics of Discussion and Items Where There Is a Potential for Decision.

List key topics of discussion and actions where there is a potential for decision.

L. Adjournment.

For in-person or hybrid meetings, have the Chair sign an adjournment notice and post outside meeting room door. (See Adjournment Notice Form in Appendix G.). No adjournment notice needed for all virtual meetings.

M. Consider the Board or Committee's Own Processes.

A Board, Commission or Committee's processes may affect the guidance listed below. However, all Board, Commission and Committee's processes must comply with OPMA.

N. Regular and Special Meetings.

See Section VII of these Guidelines for requirements for regular meetings and *Section VIII* for special meetings.

VII. REGULAR MEETING REQUIREMENTS (RCW 42.30.070)

A. Notice.

Regular meetings are held under a schedule fixed by ordinance, resolution, bylaws, or by whatever other rule is required for the conduct of business. If at any time any regular meeting falls on a holiday, such regular meeting shall be held on the next business day.⁵

Make sure the regular meeting schedule has been advertised in Jefferson County's legal paper of record each January for the year. Any meetings outside the advertised regular meeting schedule will be a special meeting and must follow all requirements for special meetings.

B. Posting of the Agenda.

Agendas must be provided on the Board, Commission or Committee's website at least 24 hours before the meeting. Departments who staff meetings of Boards, Commissions or Committees may post an agenda on the Department's own web page, but the agenda also must be posted on Jefferson County's calendar of meetings.

C. Additional Business Items Allowed.

During a regular meeting, the Chair may add additional business items, and the Board, Commission or Committee can discuss the additional item and make a decision on the additional business item, even if the additional business item is not on the agenda. That is not allowed for a special meeting.

VIII. SPECIAL MEETING REQUIREMENTS (RCW 42.30.080)

A. Special Meetings Are Meetings Not at the Published Date Time or Location on the Annual List of Regular Meetings.

A special meeting is any meeting not included in the annual list of regular meeting dates. *See RC.*

If any portion of a meeting is held outside the normal meeting location, it is a special meeting. *See RCW [42.30.070](#).*

⁵ RCW [42.30.070](#).

B. Notice.

Notice of any special meeting must be delivered or posted at least 24 hours before the time of such meeting as specified in the notice. RCW [42.30.080\(2\)\(c\)](#).

C. Posting the Notice and the Agenda.

Send the special meeting notice and agenda to each local newspaper of general circulation and local radio or television station that has on file with the Board of County Commissioners a written request to be notified of such special meeting or of all special meetings (media contacts) at least 24 hours in advance. RCW [42.30.080\(2\)\(a\)](#) The Board of County Commissioners' staff has an up-to-date list of media contacts. Again, do not meet if there was less than 24-hours' notice.

The special meeting notice and agenda also must be posted on Jefferson County's website 24 hours before the meeting. RCW [42.30.080\(1\)\(b\)](#). If in-person or hybrid, notice of the meeting location must be prominently displayed 24 hours in advance at the main entrance of the agency's principal location and the meeting site, if the meeting site is not being held at the agency's principal location. RCW [42.30.080\(2\)\(c\)](#). For remote only meetings, the notice and agenda must be posted on a website hosted or shared by the agency. RCW [42.30.080\(2\)\(c\)](#). The special meeting notice and agenda also must be sent to each member of the Board, Commission, or Committee unless waived in writing by the member. RCW [42.30.080\(1\)](#).

D. Additional Business Items Prohibited.

Adding additional business or items for decision during a special meeting is prohibited by OPMA. RCW [42.30.080\(3\)](#).

If there are items that need to be discussed but do not require decision⁶ at a special meeting, the items must be on the agenda because under OPMA discussion is "action."⁷ Do not change special meeting agenda after the start of the meeting, and add no additional business items.

IX. DETAILED MEETING INFORMATION

A. Call to Order.

The Chair will call the meeting to order after a quorum has been established. Call to Order is sometimes accompanied with introductions of members and staff present. The Chair will have the agenda and will conduct business as outlined in the agenda.

B. ~~Public Comment Period~~ for Oral Testimony.

Follow the ~~public comment~~testimony requirements in Section IV of these Guidelines. If an item requires or allows for oral ~~public comment~~testimony, each member of the public must be allowed to provide oral ~~public comments~~-testimony before a decision is made on an item.

⁶ RCW [42.30.020\(3\)](#).

⁷ RCW [42.30.020\(3\)](#).

The time for each oral ~~public comment testimony~~ can be limited so all persons wishing to provide ~~oral public comment testimony~~ can speak. Typically the time limit is 2 or 3 minutes each. People ~~commenting-giving testimony~~ need not give their name, address, or other information,⁸ unless the ~~comments are testimony is~~ at a public hearing. Commenters must be able to remain anonymous if they wish. (Hearings are different, name/address are required for public ~~comment testimony~~ during hearings). Make sure the public can provide anonymous ~~commentstestimony~~, unless the item is a hearing.

C. Motions.

1. ~~Public Comment~~Testimony Requirement. Boards, Commissions and Committees must provide an opportunity for ~~public comment testimony~~ before a decision is made on any motion. How a Board, Commission or Committee handles public ~~comment testimony~~ is the most important change in OPMA effective in 2022. The biggest practical change will be for how motions are handled. Deciding any motion is making a decision. So, ~~public comment testimony~~ is now required before a decision on any motion.

2. Motion Procedure.⁹

It is best practice to continue discussions to a point of decision, rather than to make various motions that will need to be amended later on.

One member makes a motion. Another member must second the motion to continue on with discussion. Otherwise, the motion will fail due to lack of a second.

Before the vote is taken on a motion, it may be amended with the consent of the member who made the motion. No vote on an amendment to a motion is required. If the amendment is agreeable, the Chair must ask for a final vote on the amended motion.

After a second and any amendments, the Chair should call for discussion on the motion. These principles should be followed during discussion on the motion:

- The Chair should always remain impartial.
- No person should speak until recognized by the Chair.
- Only one question at a time may be considered.
- Only one person may have the floor at any one time.
- All remarks must be addressed to the Chair.
- Full and free discussion of every motion is required. The Chair must protect the rights of all members, including the members in the minority on the motion.
- Silence gives consent. Those who do not vote allow the decision to be made by those who vote.
- Personal remarks or side discussions during discussion are out of order.

⁸ RCW 42.30.040 states, "A member of the public shall not be required, as a condition to attendance at a meeting of a governing body, to register his or her name and other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance."

⁹ The procedure below was adapted from Roberts Rules of Order for Small Boards.

- A majority of the members decides a motion, unless basic rights of members are involved or a rule provides otherwise.

Members have a right to know what the pending question is and to have it restated before a vote is taken. Sometimes, if the discussion after a motion has seconded goes on for a long time, members will forget what the exact original motion was and ask the Clerk of the Meeting. Because of this possibility, it is good practice for the Clerk of the Meeting to type out or write down the motion as it is being made, then confirm the accuracy of the transcription with the person making the motion.

After any discussion is complete, the Chair can call for a vote on the motion. The chair calls for a vote by asking “All in favor?” Those in favor say “Aye.” Then asking, “All opposed?” Those opposed will say “no.” The Chair then announces the result. If all members are present for a meeting, and all members voted for the motion, the term is “motion carried by a unanimous vote.” If not all members are present, but a majority of the members voted in favor, the term is “motion carried.” If the motion is not carried by a majority, the term is “motion did not carry.”

D. Executive Sessions.

1. Executive Session Topics. RCW [42.30.110](#) authorizes non-public discussion of certain topics in executive sessions during a regular or special meeting for certain matters that do not require the presence of legal counsel (including but not limited to labor negotiations and qualifications of persons seeking employment) and certain matters that require the presence of legal counsel (including matters related to actual or potential litigation). Legal counsel must be in attendance for all potential or actual litigation executive sessions.
2. Agenda Listing of Executive Sessions Required Only for Special Meetings. For special meetings, the executive session for topics covered by RCW [42.30.110](#) must be included in an agenda for a special meeting. For regular meetings executive sessions for topics covered by RCW [42.30.110](#) can be added during the regular meeting, even if not on the agenda published for the regular meeting.
3. Required Announcement for an Executive Session. RCW [42.30.110\(2\)](#) states, “Before convening in executive session, the presiding officer of a governing body shall publicly announce the purpose for excluding the public from the meeting place, and the time when the executive session will be concluded.”
4. Executive Sessions May Be Extended. RCW [42.30.110\(2\)](#) authorizes extension of the executive session to a stated later time by announcement of the Chair.
5. Recordings Must Be Stopped During the Executive Session. All recordings must stop and the Clerk of the Meeting must be excused and cannot take notes during executive sessions.
6. Confidentiality. Persons Attending Executive Sessions Must Maintain the Confidentiality of the Discussions.

7. Sign and Post the Executive Session Notice. The Clerk of the Meeting will sign and post Executive Session Notice to the door of the meeting (if in-person or hybrid). If meeting is all virtual, Clerk of the Meeting will sign a copy of the Executive Session Notice to be kept in the file. (See the Executive Session Notice Form in Appendix D.)
8. No Decision Can Be Made During an Executive Session. No decisions on any items discussed in executive session can be made during the executive session. Decisions can be made only in open session, after the recessed regular or special meeting has resumed. RCW 42.30.060(2).¹⁰
9. Coordination with Regular Session or Special Session. Starting an executive session follows a recess from a regular session or a special session. The members cannot come back to the recessed regular or special meeting until after the time that Chair announced that the executive session would end. If the discussion on the topic for the executive session is complete before the announced end time, the members only can come back to the recessed regular or special meeting at the announced end time for the executive session. At the end of executive session, the Chair will announce that it is the end of executive session and that the members will resume the recessed regular or special session.
10. Motion or No Decision Necessary. If a decision is proposed after an executive session, a motion proposing a decision should be made. If no decision was proposed at the executive action, state: No decision is necessary.
11. Required ~~Public Comment~~Oral Testimony on Any Motions After an Executive Session. If a motion is made following an executive session, then the Chair should ask whether discussion is necessary. After any discussion, ~~public comment~~oral testimony is required before a vote on the motion.
12. Vote on Motion and Announce the Result. After a motion is made following an executive session and after ~~public comment~~testimony is received, vote on the motion and announce the result of the vote.

E. Recess.

Sometimes recesses are necessary if there are technical issues, or if there is quick homework to do that needs to be brought back for discussion. The Chair can call for a recess but must state how long the recess will be for and what time there will be a return to the session.

F. Adjournment.

At the end of the agenda, the Chair can state there are no other agenda items and can adjourn the meeting. The Chair can ask: “Are there any additional ~~comments-items~~¹¹ for the good of

¹⁰ (“No governing body of a public agency at any meeting required to be open to the public shall vote by secret ballot. Any vote taken in violation of this subsection shall be null and void, and shall be considered an ‘action’ under this chapter.”)

¹¹ Note: This was changed to avoid confusion with public testimony.

the order? Hearing none, this meeting is adjourned.” Some Boards, Commissions and Committees take a vote on the adjournment, but that is not required.

X. CREATION OF WRITTEN MEETING MINUTES (RCW 42.30.035)

A. Written Minutes Are Required.

OPMA requires the creation of written meeting minutes.¹²

The meeting minutes are the official record of decisions and discussion that took place during the meeting. If creating decision-only minutes (recommended), minutes will resemble the agenda.

B. Minimum Requirements for Minutes.

At minimum, written meeting minutes must:

1. List the date, time, location, title and type of meeting (regular or special).
2. State who was the Chair for the meeting that called the meeting to order.
3. State which members participated in the meeting (the minutes also can say who was absent).
4. Document the result of all items discussed. The item from the agenda and a couple sentences about the discussion on each topic must be in the minutes.
5. Be in the order of items discussed. Meeting minutes must be in the order of the items discussed, typically minutes look like the agenda, but with more detail.
6. Describe the decision on an item. The results of **ALL** motions on any item made must be documented, even if a motion was moved, but failed lacking a second.
7. State the date and time from the agenda scheduled for any executive session or closed sessions. Then, after each session, state the actual times the session began and ended, who participated in the session, and what RCW was the legal basis for the session. (*See the Minutes Form in Appendix E.*)
8. State all recess and reconvene times.
9. Minutes should list the start, ~~extention~~extension, and end times of Executive Sessions and Closed Sessions (RCW 42.30.140).
10. List all additional business items discussed that were not originally listed on a regular meeting agenda. List these in the minutes as “Additional Business: Discussion re: XXX” and then include any decisions not originally listed that took place.

¹² RCW 42.30.035.

11. State the time when the Chair adjourned the meeting.
12. The signature page should be signed by the Chair and the Clerk of the Meeting, unless the by-laws dictate otherwise.

C. Tips for the Clerk of the Meeting.

1. Tip – Create a boiler plate for minutes with meeting elements typically included, with items in *red* where updates will most likely be needed (date, who first and seconded a motion, adjournment time, executive session times, etc.) (See the Minutes Form in Appendix E.)
2. Tip – Keep all meeting materials in a folder. This includes anything emailed to members, items submitted during the meeting, written public comments testimony (emailed or submitted in person).

XI. LIMITS ON COMMUNICATIONS BETWEEN MEMBERS

A. Meetings of Other Organizations or Groups Where a Quorum of the Board, Commission or Committee is Present.

Members of a Board, Commission or Committee can attend a meeting of another organization or group without violating OPMA, provided no quorum of the members is present.

Even if a quorum is present, members of a Board, Commission or Committee would not violate OPMA, unless the transaction of official business occurs. RCW [42.30.020](#). Members should take care when they attend such meetings where a quorum of the members is present not to consider or discuss official Jefferson County business.

When necessary for a quorum of members to attend such meetings where official business may be discussed, the notice requirements in Section II of this Guidance and the agenda requirements in Section V must be followed.

B. Written Communications Between Members.

Written communications (emails, text messages) between members is allowed under OPMA when the members is not a quorum of the members, even if official business is discussed. However, written communications between a quorum or more members about official business violates OMPA. See RCW [42.30.020](#) (the transaction of official business includes discussions, considerations, reviews, and evaluations.) Do not use "Reply All" or any other process that could possibly lead to an illegal meeting, in violation of OPMA.

XII. UNUSUAL SITUATIONS

A. Emergencies.

In the event of an emergency such as fire, flood, earthquake or other emergency, a meeting may be held at a site other than the regular meeting site, and the notice requirements under OPMA are suspended during such an emergency. RCW [42.30.070](#).¹³

B. Field Trips or Tours.

1. Special Meeting. A field trip or tour always will be a special meeting because it is not being held in a regular meeting location. RCW [42.30.070](#).
2. Public Attendance Required When A Quorum is Present. For “field trips” or tours by at least a quorum of the Board, Commission or Committee, the public must be able to attend. If the public cannot attend, a quorum of the Board, Commission or Committee cannot go, but less than a quorum can go.
3. Agenda Must List Sites of Field Trip or Tour. The agenda must list addresses of the site(s) to be visited and the times proposed for each site visit. Sites must be visited in the order listed. RCW [42.30.080\(3\)](#).
4. Procedure for Recessing a Meeting for a Field Trip or Tour. If a quorum will attend the field trip, the entire meeting will be a Special Meeting, regardless if the meeting starts at the usual regular meeting location. If a quorum of the Committee will not be attending the field trip, the meeting can remain a Regular Meeting and the Chair will call for a recess and reconvene when the members who left are back. The members who attended can give a debrief at the reconvened meeting.

C. Meeting Agenda Not Within 24 Hours of the Start of the Meeting.

What happens if a meeting starts but then there is a discovery that there was a failure to post the agenda to the public within 24 hours of the meeting? Any ordinance, resolution, rule, regulation, order, or directive adopted during that meeting is null and void. RCW [42.30.060](#). Stop the discussion of any ordinance, resolution, rule, regulation, order, or directive and start over at either the next regular meeting or at a properly noticed special meeting. If the error is discovered the meeting must be immediately adjourned.

D. Disruptions.

RCW [42.30.050](#) contains the procedure for interruptions at an open public meeting.

¹³ (“If, by reason of fire, flood, earthquake, or other emergency, there is a need for expedited action by a governing body to meet the emergency, the presiding officer of the governing body may provide for a meeting site other than the regular meeting site, for a remote meeting without a physical location, or for a meeting at which the physical attendance by some or all members of the public is limited due to a declared emergency, and the notice requirements of this chapter shall be suspended during such emergency.”)

Appendix G is a script for in-person disruptions at open public meetings.

Appendix H is a script for on-line disruptions at open public meetings.

XIII. OPMA VIOLATIONS AND LIABILITY (RCW 42.30.120)

A. Personal Liability.

Any member of a Board, Commission or Committee subject to OPMA and who participates in a meeting that does not comply with OPMA is subject to a civil penalty of \$500 for the first OPMA violation¹⁴ and \$1,000.00 for each subsequent OPMA violation.¹⁵

B. Some Actions Taken Are Null and Void.

Any ordinance, resolution, rule, regulation, order, or directive adopted during that meeting is null and void. RCW [42.30.060](#).

C. County Liability for Attorney's Fees and Costs.

The County is liable for attorney's fees and costs in lawsuits seeking to void actions, if a meeting is held in violation of OPMA. RCW [42.30.120\(4\)](#).

XIV. FORMS

The forms attached in the Appendix should be followed.

A. Agenda.

Appendix A is an Agenda Form.

B. Hearing Notice.

Appendix B is a Hearing Notice Form.

C. Agenda Request.

Appendix C is an Agenda Request Form. Only the Jefferson County Board of Commissioners uses an agenda request form. But any Board, Commission or Committee may establish a procedure that requires or allows for an agenda request form.

D. Executive Session Notice.

Appendix D is an Executive Session Notice Form.

¹⁴ RCW [42.30.120\(1\)](#).

¹⁵ RCW [42.30.120\(2\)](#)

E. Minutes.

Appendix E is a Minutes Form.

F. Notice of Adjournment.

Appendix F is a Notice of Adjournment Form.

G. Hearing: In-Person Disruption.

Appendix G is a script for in-person disruptions at open public meetings.

H. Hearing: On-Line Disruption.

Appendix H is a script for on-line disruptions at open public meetings.

APPENDIX A – AGENDA FORM



[State Regular or Special Meeting Here] Meeting Agenda

[Name of Board, Commission or Committee Here]

[Day Here], [Date, Month & Year Here] @ [Time Here]

[Meeting Room Location Here]

[Street Address Here] ([Type of Meeting Here. Example: In-person, Virtual Only or Hybrid])

You can join this meeting by using these methods:

- **Zoom Meeting:** [URL Here, Example: https://us06web.zoom.us/j/91098454388]
This option will allow you to join the meeting live. Participation will be up to the Chair or Clerk of the Meeting.
- **Audio-only:** Dial: [Area Code and Telephone Number Here] and use Access Code: [Access Code Here]
This option will allow you to listen to the meeting live. Participation will be up to the Chair or Clerk of the Meeting. Access for the hearing impaired and others can be accommodated using Washington Relay Service at [Area Code and Telephone Number Here]
- **Website or to View Document(s):** [Information on How to Access Meeting Documents Here]

TECHNICAL DIFFICULTIES:

If there are technical difficulties, at least one method above will be accessible to the public. Please try all methods first before calling [Area Code and Telephone Number Here] to report any issues.

SUBMITTING ~~PUBLIC COMMENTS~~WRITTEN TESTIMONY FOR MEETING: During social distancing for the COVID-19 pandemic, citizens can submit written public comments testimony remotely by email regarding items listed below. Board members and staff will read and consider your written testimonyeomments before the meeting. **Email your written eomments-testimony by [Time Here] the day before the meeting using this dedicated email address: [URL Here]**

To review any written testimonyeomments received: [URL Here]

AGENDA

CALL TO ORDER

PUBLIC COMMENT PERIOD

[If the Members Brief the Public on Meetings and Schedules] **BRIEFING SESSION**

[If there is a Consent Agenda] **APPROVAL AND ADOPTION OF CONSENT AGENDA**

(Items listed below have been distributed to the members in advance for study and will be enacted by one motion. If separate discussion is desired on an item, that item may be removed from the Consent Agenda and placed on the Regular Agenda, at a specific time at the request of any member.)

1. [Consent Agenda Item Here]
2. [Next Consent Agenda Item Here]

ADDITIONAL PUBLIC COMMENT BEFORE ANY DECISION ON CONSENT AGENDA

[If there meeting minutes to approve] **APPROVAL OF MEETING MINUTES:** [Date(s) of Meeting(s) Here]

DISCUSSION: [List Separately Every Item for Discussion Using This Format.]

[If any Committee Reports] **COMMITTEE REPORTS:** [List Separately Every Committee Report Using This Format]

1. [Name of Committee Here] Committee – Lead: [List Person Giving Report]
2. [Next Name of Committee Here] Committee – Lead: [List Person Giving Report]

WORKSHOP: [List Separately Every Workshop Using This Format] [For Each Workshop Where A Decision Might Be Taken Add Additional Public Comment. (“Decision” means a collective positive or negative decision, or an actual vote by a majority of the members of a governing body when sitting as a body or entity, upon a motion, proposal, resolution, order, or ordinance. RCW 42.30.020.)]

ADDITIONAL PUBLIC COMMENT BEFORE ANY DECISION AFTER ANY WORKSHOP

POTENTIAL DECISION: [List Separately Every Item Where Decision May Be Taken Using This Format.] [For Each Workshop Where Final Might be Taken, Add Additional Public Comment. (“Decision” means a collective positive or negative decision, or an actual vote by a majority of the members of a governing body when sitting as a body or entity, upon a motion, proposal, resolution, order, or ordinance. RCW 42.30.020.)]

ADDITIONAL PUBLIC COMMENT BEFORE ANY DECISION AFTER A WORKSHOP

EXECUTIVE SESSION: [List Separately Every Executive Session. For Each Executive Session, After Which Decision Might Be Taken, Add Additional Public Comment. (“Decision” means a collective positive or negative decision, or an actual vote by a majority of the members of a governing body when sitting as a body or entity, upon a motion, proposal, resolution, order, or ordinance. RCW 42.30.020.)] The executive session will be held under RCW [List the subsection of RCW 42.30.110 that authorizes the Executive Session Here], which authorizes executive sessions to discuss [List type of authorized executive session here.].

ADDITIONAL PUBLIC COMMENT BEFORE ANY DECISION AFTER AN EXECUTIVE SESSION

CLOSING REMARKS

ADJOURNMENT BY: [List Time Here]

AT A REGULAR MEETING, THE MEMBERS MAY ADD AGENDA ITEMS AND TAKE ACTION ON OTHER ITEMS NOT LISTED ON THIS AGENDA.

Americans with Disabilities Act (ADA) Accommodations Provided Upon Request

APPENDIX B – HEARING NOTICE FORM

Please publish [one or two] times: [Date(s) Here] [The Moving Party Sends Notice To Paper]

Contact Person: [List Moving Party Here]

Bill to: Jefferson County Commissioners

P.O. Box 1220

Port Townsend, WA 98368

NOTICE OF PUBLIC HEARING

(Title of Hearing)

[List Title of Hearing Here]

NOTICE IS HEREBY GIVEN that a public hearing is scheduled by the Jefferson County Board of Commissioners for **[Day Here], [Full Date Here] at [Time Here]** in the [Location and Full Street Address Here]. Notice of the hearing is to be published in the official newspaper of Jefferson County.

[List Reason for Hearing Here]

The 2022-2023 subrecipient grant is available for viewing on the County website at [URL Here] [BoCC Staff Will Add The Link]

You are welcome to participate. You will need to join the meeting by [Time Here] using these methods: **VIRTUALLY:** Via the following Zoom, link: <https://zoom.us/j/93777841705>, **PHONE:** Dial 1-253-215-8782 and enter access code: 937-7784-1705# and press *9 to “raise your hand” to be called upon. Access for the hearing impaired can be accommodated using Washington Relay Service at 1-800-833-6384, **IN-PERSON:** This option is only available provided a hybrid meeting can be held with reasonable safety, namely that the COVID-19 risk is Very Low, Low or Moderate per the dashboard at <https://www.co.jefferson.wa.us/1429/COVID-19> per Jefferson County Resolution No. 24-22. If in-person is available, seating capacity may also be limited to 50%. (the red is to confirm link to the meeting)

To view documents or watch this meeting live with no participation, go to www.co.jefferson.wa.us Follow the links under “*Quick Links: Videos of Meetings: Today.*” If you experience difficulties joining the meeting or viewing documents please call 360-385-9100 to report any issues.

Written testimony is also invited beginning on [Start Date Here] and ending at the end of the Public Hearing, unless extended by the Board of County Commissioners. Written public testimony may be submitted by **Email to:** jeffbocc@co.jefferson.wa.us; or by **Mail to:** Jefferson County Commissioners’ Office; PO Box 1220, Port Townsend, WA 98368. Testimony must be received by the Board of County Commissioners by the end of the hearing testimony period.

Signed this [Day Here] day of [Month Here], [Year Here].

JEFFERSON COUNTY
BOARD OF COMMISSIONERS
/S/[Name of Chair Here], Chair

APPENDIX C – AGENDA REQUEST FORM

**JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA REQUEST

TO: Board of Commissioners

FROM: [Name Here]

DATE: [Leave Date Blank]

RE: [Short Description of Agenda Item Here]

STATEMENT OF ISSUE:

[Discuss the Issue To Be Addressed Here—What Do You Want the Members to Do?]

ANALYSIS:

[State Here the Reasons Why the Members Should Do What You Want Them To Do]

FISCAL IMPACT:

[Discuss Here the Fiscal Impact of What You Want the Members To Do]

RECOMMENDATION:

[State What You Want the Members To Do]

REVIEWED BY:

[Name Here], County Administrator

Date

APPENDIX D – EXECUTIVE SESSION NOTICE FORM

[Name of Board, Committee or Commission Here]

will be meeting in EXECUTIVE SESSION:

WITH: [List All Participants Here]
PLACE: [Location Here]
DAY & DATE: [Day and Full Date Here]
TIME: [Start Time Here] to [End Time Here]

ANNOUNCED TIME	EXTENSION	EXTENSION	EXTENSION
_____ to _____	_____ to _____	_____ to _____	_____ to _____

Exemptions as outlined in the Open Public Meetings Act, RCW 42.30.110

PERSONNEL:

- | | | |
|---|--|--|
| ☐ (f) Receive and Evaluate Complaints or Charges Brought against a Public Officer or Employee. | ☐ (g) Evaluate the Qualifications of an Applicant for Public Employment.
No discussion of Salaries, Wages, and Other Conditions of Employment to be Generally Applied within the County; and, No Final Action on the Hiring. Setting the Salary of an Individual Employee or Class of Employees, or Discharging or Disciplining an Employee. | ☐ (g) Review the Performance of a Public Employee.
No discussion of Salaries, Wages, and Other Conditions of Employment to be Generally Applied within the County; and, No Final Action on the Hiring. Setting the Salary of an Individual Employee or Class of Employees, or Discharging or Disciplining an Employee. |
|---|--|--|

DISCUSS WITH LEGAL COUNSEL:

- ☐ (1)(i) Matters Related to Enforcement Actions.
☐ (1)(i) Actual Litigation.
☐ (1)(i) Potential Litigation.

OTHER EXEMPTIONS:

- ☐ (1)(a)(i) Consider Matters Affecting National Security.
☐ (1)(a)(ii) Consider Data Security Breach Disclosure.

Discussion in Executive Session must be kept confidential, as public knowledge regarding the discussion likely will result in an adverse legal or financial consequence to the County.

[Name Here], Clerk

APPENDIX E – MINUTES FORM



[State Regular or Special Meeting Here] Meeting Minutes **[Name of Board, Commission or Committee Here]**

[Day Here], [Date, Month & Year Here] @ [Time Here]

[Meeting Room Location Here]

[Street Address Here] ([Type of Meeting Here, Example: In-person, Virtual Only or Hybrid])

CALL TO ORDER: [List Persons Presenting Information at the request of the Board, Commission or Committee Here]¹⁶ were present. [List Person Who Called the Meeting to Order Here] called the meeting to order at the appointed time.

PUBLIC COMMENT PERIOD: The following is a summary of comments-testimony made by individuals in attendance at the meeting and reflect their opinions: [List and Summarize Any Public Comments Testimony Here].

The Members and [Name Any Staff Member Who Responded to Public Comments Testimony Here] responded to public comments-testimony and concerns made during the Public Comment Period and responded to written comments-testimony received.

[If there is a Consent Agenda] **APPROVAL AND ADOPTION OF THE CONSENT AGENDA:** [List the Member Who Moved for Approval Here] moved to approve the items on the Consent Agenda as presented. [List the Member Who Moved for Seconded Here] seconded the motion, which carried by a vote of [List All Votes For and Against Here]. [List and Summarize Any Oral Public Comments Testimony Here].

[List All Recesses Using This Format] **RECESS:** The meeting was recessed at [Time Here] and reconvened at [Time Here] with the following Members present: [List Members Present Here].

[If the Members Brief the Public on Meetings and Schedules] **MEMBERS' BRIEFING SESSION:** The Members discussed recent meetings they attended and reviewed their meeting schedules.

DISCUSSION: [Summarize Separately for Every Item on the Agenda for Discussion.]

¹⁶ Thiersch's October 10, 2021 email.

[If any Committee Reports] **COMMITTEE REPORT:** [List Person Giving Report] of the [Name of Committee Here] Committee reported to the members and responded to questions from the members and staff.

WORKSHOP:

1. Discussion: [Summarize the Discussion at Every Workshop Using This Format].
2. Motion or No Decision Necessary: [If Decision is Proposed, A Motion Proposing Decision Should Be Made. If a Motion Is Made, Then **Oral Public Comment Testimony** Is Required Before a Vote on the Motion].
3. Public Comment: [List and Summarize Any **Oral Public Comment Testimony**, After a Motion Is Made to Make a Decision].
4. Decision: [If A Motion Was Made and **Oral Public Comment Testimony** Was Heard, Vote and State the Results of the Vote. If No Decision Was Taken, State No Decision Was Taken. Example: A motion was made by [Person] and seconded by [Person] to [Quote the Motion] and the motion passed by a vote of [State the votes for and against], with [List Members] voting for and [List Members] voting against.]

DECISION:

1. Discussion: [Summarize the Discussion Before any Decision Was Taken].
2. Motion: [A Motion Proposing a Decision Should Be Made. Then **Oral Public Comment Testimony** Is Required Before a Vote on the Motion].
3. Public Comment: [List and Summarize Any **Oral Public Comment Testimony**, After a Motion Is Made to Make a Decision].
4. Decision: [Vote and State the Results of the Vote on the Motion. Example: A motion was made by [Person] and seconded by [Person] to [Quote the Motion] and the motion passed by a vote of [State the votes for and against], with [List Members] voting for and [List Members] voting against.]

EXECUTIVE SESSION:

1. At [List Time Here], an executive session was held under RCW [List the subsection of RCW 42.30.110 that authorized the Executive Session Here], which authorizes executive sessions to discuss [List type of authorized executive session here.]. These persons were present: [List **Members and Other Persons Present at the Executive Session** Here].
2. Extensions: [List the Times for Every Extension of the Executive Session Here]. The Executive Session was extended to [Time Here] and to [Time Here] by announcement of the chair of the meeting.
3. Resumption of Meeting After Executive Session: The Executive Session concluded and

the meeting resumed at [Time Here].

4. Motion or No Decision Necessary: [If a Decision Is Proposed, A Motion Proposing a Decision Should Be Made. If No Decision Was Proposed at the Executive Action, State: No decision is necessary. If a Motion Is Made, Then Public Oral ~~Comment~~ Testimony Is Required Before a Vote on the Motion].
5. Public Comment: [List and Summarize Any Oral Public ~~Comment~~ Testimony, After a Motion Is Made to make a Decision].
6. Decision: [For Each Executive Session After Which A Motion for Final Was Made and Oral Public ~~Comment~~ Testimony Was Heard, Vote and State the Results of the Vote. If No Decision Was Made, State No Decision Was Made].

ADDITIONAL DISCUSSION ITEMS: The Commissioners and County Administrator reviewed: [List and Summarize Any Additional Items Discussed Not on the Agenda].

NOTICE OF ADJOURNMENT: The Chair of the Meeting Eisenhower adjourned the meeting at [Time Here] until the next regular meeting or special meeting as properly noticed.

These minutes are approved:

[NAME OF BOARD, COMMISSION OR COMMITTEE HERE]

SEAL:

[Name Here], Chair

ATTEST:

[Name Here], Member

[Name Here]

[Name Here], Member

Clerk of the [Board, Commission or Committee Here]

APPENDIX F – NOTICE OF AJOURNMENT

[Name of Board, Commission or Committee Here]

NOTICE OF ADJOURNMENT

Date: _____

Time: _____

Approved:

_____, Chair

[Name of Board, Commission or Committee Here]

Next Meeting:

Time: Regular Monday Meeting on [Date Here] at [Time Here] or Special Meeting if properly noticed under RCW 42.30.080.

Place: [State Location and Full Address Here]

APPENDIX G – SCRIPT FOR IN-PERSON DISRUPTIONS **AT OPEN PUBLIC MEETINGS**

Procedure for Addressing In-Person Disruptions at Open Meetings¹⁷

This procedure discusses the steps a governing body must follow to address an in-person disruption at an open meeting. The governing body must follow all the steps before it can adjourn the meeting and reconvene the open meeting in another location. The basis for this procedure is [RCW 42.30.50](#),¹⁸ quoted at the end of this Procedure.

Protection of First Amendment Rights Required:

- Open public meetings are limited public forums and First Amendment protections apply.
- Speech dealing with the functioning of government, including the efficiency of management and operations of agencies, are matters of public concern. This includes criticism of public officials or their policies. *Sprague v. Spokane Valley Fire Dep't*, 189 Wn.2d 858, 883, 409 P.3d 160, 175 (2018).
- Because the line between speech unconditionally guaranteed and speech which may legitimately be regulated, suppressed, or punished is finely drawn, in every case the power to regulate must be so exercised as not, in attaining a permissible end, unduly to infringe the protected freedom. *Gooding v. Wilson*, 405 U.S. 518, 522, 92 S. Ct. 1103, 1106, 31 L.Ed.2d 408, 414 (1972).
- The governing body should tolerate offensive conduct by attendees if the conduct does not cause an actual disruption.
- The governing body should attempt other methods to address a perceived disruption before resorting to ejection.
- The governing body should treat all disruptions in a similar manner to avoid claims that its decision to eject resulted from the viewpoint expressed rather than the disruption itself. For example:
 - Ejection for giving a silent Nazi salute violated the 1st Amendment as viewpoint discrimination, even if after public comment period. *Norse v. City of Santa Cruz*, 629 F.3d 966, 976 (9th Cir. 2010).
 - Provision of federal law prohibiting registration of trademarks that may “disparage . . . or bring . . . into contemp[t] or disrepute” any “persons, living or dead” violated

¹⁷ **Revisions:** David Alvarez created this document on February 20, 2007 and revised it on February 17, 2011. Philip Hunsucker revised this document on July 24, 2017 and on July 12, 2022.

¹⁸ There is an excellent MRSC article on this topic at <http://mrsc.org/Home/Stay-Informed/MRSC-Insight/April-2012/Addressing-Disruptions-at-Public-Meetings.aspx>, Accessed on July 10, 2022.

the 1st Amendment as viewpoint discrimination. *Matal v. Tam*, 137 S. Ct. 1744, 1748, 198 L.Ed.2d 366, 371 (2017).

- Ordinance prohibiting “insolent” behavior violated the 1st Amendment as viewpoint discrimination. *Acosta v. City of Costa Mesa*, 694 F.3d 960, 973 (9th Cir. 2012).
- The governing body should never limit an attendee’s speech because it does not like the viewpoint expressed.
- Time, place and manner restrictions are permissible if viewpoint neutral and enforced in a uniform manner, so persons with unpopular viewpoints cannot claim they are being limited based on their viewpoint.
- Time, place and manner restrictions can allow for the ejection of an attendee, but only if the attendee’s actions disrupt, disturb or otherwise impede the orderly conduct of the meeting. For example:
 - A governing body, where the public may address the governing body, is the focus of highly important individual and governmental interests. Citizens have an enormous first amendment interest in directing speech about public issues to those who govern. Partly for this reason, such meetings, once opened, have been regarded as public forums, albeit limited ones. *White v. Norwalk*, 900 F.2d 1421, 1425 (9th Cir. 1990).
 - A speaker may disrupt a public meeting by speaking too long, by being unduly repetitious, or by extended discussion of irrelevancies. The meeting is disrupted because the governmental body is prevented from accomplishing its business in a reasonably efficient manner. Such conduct may interfere with the rights of other speakers. *White v. Norwalk*, 900 F.2d 1421, 1426 (9th Cir. 1990).
 - Regulations restricting public commentary to three minutes per item at the end of each meeting are the reasonable time, place, and manner restrictions that preserve a board’s legitimate interest in conducting efficient, orderly meetings. *Kindt v. Santa Monica Rent Control Bd.*, 67 F.3d 266, 271 (9th Cir. 1995).

Procedure for Addressing Disruptions:

[RCW 42.30.050](#) suggests these progressive steps to address actions that disrupt, disturb or otherwise impede the orderly conduct of an open meeting:

1. Yelling. Courts have held that yelling can be regulated as disruptive behavior. Commenters yelling during a virtual open public meeting can be asked to stop interrupting.
 - a. The Chair should politely ask any commenter yelling to bring down the volume of their voice because it is disrupting the meeting.

- b. Warning: If the commenter again yells, the commenter politely should be warned to bring down the volume of their voice. Chair politely should ask the disrupting person(s) to please stop interrupting a second time and should warn that one more interruption will lead to the disrupting person(s) being escorted out of the meeting.
 - c. If the commenter will not stop yelling, the commenter should be requested to present their ~~public comment~~ testimony in writing and advised that they are welcome to try oral testimony ~~public comments~~ in any future meeting, as long as they are not disruptive. At this point, Chair may request that a Sheriff's Deputy come to the meeting.
2. Threats to Harm Someone. Threats to harm someone disrupt the purpose of ~~public comment~~ testimony, namely to promote public discourse. Commenters making threatening comments during a virtual open public meeting can be asked to stop making threats:
 - a. The Chair should politely ask any commenter making threats to stop because it is disrupting the meeting.
 - b. If the commenter does not stop making threats, the Chair should politely inform the commenter that if they do not stop, they will be asked to leave the meeting. At this point, Chair may request that a Sheriff's Deputy come to the meeting.
3. Requirements for Adjournment of the Governing Body: After being requested to leave, if the disruptive person does not leave quietly, then the governing body may vote to adjourn the meeting and reconvene at another location. Only a majority vote of the governing body can result in an adjournment and reconvening at another location.
4. Requirements After Adjournment:
 - a. Notice: The media in attendance and those persons in attendance not part of the disruption must be provided with notice of a new location.
 - b. Posting an Order: If the majority vote is to adjourn, then the governing body must post an order of adjournment, citing the new time and location of the meeting at the doorway of the location of the disrupted meeting.
 - c. Limits on Decisions. If the meeting is adjourned, the governing body may only decide on the items on the agenda for the adjourned meeting.
5. Possible Criminal Conduct for Failure to Comply with Request to Leave the Meeting: Failure to leave quietly at the request of law enforcement may constitute disorderly conduct under [RCW 9A.84.030](#) or a failure to disperse under [RCW 9A.84.010](#).

RCW [42.30.050](#)

Interruptions--Procedure

In the event that any meeting is interrupted by a group or groups of persons to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals interrupting the meeting, the members of the governing body conducting the

meeting may order the meeting room cleared and continue in session or may adjourn the meeting and reconvene at another location selected by majority vote of the members. In such a session, final disposition may be taken only on matters appearing on the agenda. Representatives of the press or other news media, except those participating in the disturbance, may attend any session held under this section. Nothing in this section shall prohibit the governing body from establishing a procedure for readmitting an individual or individuals not responsible for disturbing the orderly conduct of the meeting.

APPENDIX H – SCRIPT FOR ON-LINE DISRUPTIONS AT OPEN PUBLIC MEETINGS

Procedure for Addressing On-Line Disruptions at Open Public Meetings¹⁹

This procedure discusses the steps a governing body must follow to address an on-line disruption at an open public meeting. The basis for this procedure is [RCW 42.30.50](#),²⁰ quoted at the end of this Procedure.

Protection of First Amendment Rights Required:

- Open public meetings are limited public forums and First Amendment protections apply.
- Speech dealing with the functioning of government, including the efficiency of management and operations of agencies, are matters of public concern. This includes criticism of public officials or their policies. *Sprague v. Spokane Valley Fire Dep't*, 189 Wn.2d 858, 883, 409 P.3d 160, 175 (2018).
- Because the line between speech unconditionally guaranteed and speech which may legitimately be regulated, suppressed, or punished is finely drawn, in every case the power to regulate must be so exercised as not, in attaining a permissible end, unduly to infringe the protected freedom. *Gooding v. Wilson*, 405 U.S. 518, 522, 92 S. Ct. 1103, 1106, 31 L.Ed.2d 408, 414 (1972).
- The governing body should tolerate offensive conduct by attendees if the conduct does not cause an actual disruption.
- The governing body should attempt other methods to address a perceived disruption before resorting to ejection.
- The governing body should treat all disruptions in a similar manner to avoid claims that its decision to eject resulted from the viewpoint expressed rather than the disruption itself. For example:
 - Ejection for giving a silent Nazi salute violated the 1st Amendment as viewpoint discrimination, even if after public comment period. *Norse v. City of Santa Cruz*, 629 F.3d 966, 976 (9th Cir. 2010).
 - Provision of federal law prohibiting registration of trademarks that may “disparage . . . or bring . . . into contemp[t] or disrepute” any “persons, living or dead” violated

¹⁹ **Revisions:** David Alvarez created an in-person script on February 20, 2007 and revised it on February 17, 2011. Philip Hunsucker revised the in-person script on July 24, 2017 and adapted it for on-line meetings on September 6, 2022 and revised it on July 10, 2022.

²⁰ There is an excellent MRSC article on this topic at <http://mrsc.org/Home/Stay-Informed/MRSC-Insight/April-2012/Addressing-Disruptions-at-Public-Meetings.aspx>, Accessed on July 10, 2022.

the 1st Amendment as viewpoint discrimination. *Matal v. Tam*, 137 S. Ct. 1744, 1748, 198 L.Ed.2d 366, 371 (2017).

- Ordinance prohibiting “insolent” behavior violated the 1st Amendment as viewpoint discrimination. *Acosta v. City of Costa Mesa*, 694 F.3d 960, 973 (9th Cir. 2012).
- The governing body should never limit an attendee’s speech because it does not like the viewpoint expressed.
- Time, place and manner restrictions are permissible if viewpoint neutral and enforced in a uniform manner, so persons with unpopular viewpoints cannot claim they are being limited based on their viewpoint.
- Time, place and manner restrictions can allow for the ejection of an attendee, but only if the attendee’s actions disrupt, disturb or otherwise impede the orderly conduct of the meeting. For example:
 - A governing body, where the public may address the governing body, is the focus of highly important individual and governmental interests. Citizens have an enormous first amendment interest in directing speech about public issues to those who govern. Such meetings, once opened, have been regarded as public forums, albeit limited ones. *White v. Norwalk*, 900 F.2d 1421, 1425 (9th Cir. 1990).
 - A speaker may disrupt a public meeting by speaking too long, by being unduly repetitious, or by extended discussion of irrelevancies. The meeting is disrupted because the governmental body is prevented from accomplishing its business in a reasonably efficient manner. Such conduct may interfere with the rights of other speakers. *White v. Norwalk*, 900 F.2d 1421, 1426 (9th Cir. 1990).
 - Regulations restricting oral public commentary testimony to three minutes per item at the end of each meeting are the reasonable time, place, and manner restrictions that preserve a board’s legitimate interest in conducting efficient, orderly meetings. *Kindt v. Santa Monica Rent Control Bd.*, 67 F.3d 266, 271 (9th Cir. 1995).

Procedure for Dealing with Off-Topic, Yelling, or Threatening Oral Public Comments Testimony:

RCW 42.30.050 suggests progressive steps to address actions that disrupt, disturb or otherwise impede the orderly conduct of an open meeting. Because a speaker at an open public meeting conducted via Zoom can be prevented from speaking, it is unlikely that an open public meeting conducted via Zoom would ever need to be shut down. The following advice is provided:

1. No Banning. Banning someone from the public comment space might be viewed as unconstitutional viewpoint discrimination.

2. Off-Topic Comments. Jefferson County allows comments on any topic to be discussed during public comment period. Therefore, trying to limit topics of discussion, might be viewpoint discrimination.
3. Yelling. Courts have held that yelling can be regulated as disruptive behavior. Commenters yelling during a virtual open public meeting can be asked to stop yelling:
 - a. The Chair should politely ask any commenter yelling to bring down the volume of their voice because it is disrupting the meeting.
 - b. If the commenter does not stop yelling, the Chair should politely inform the commenter that if they do not bring down the volume of their voice, their microphone will be turned off, but they may use the rest of their allotted time at the end of the public comment period and they should be asked to remain on the line.
 - c. The commenter should be called upon again at the end of the last public comment and giving their remaining time to give testimony~~comment~~.
 - d. If the commenter again yells, the commenter politely should be warned to bring down the volume of their voice. The commenter then politely should be advised that if they do not bring down the volume of their voice, their microphone will be turned off.
 - e. If the commenter will not stop yelling, the commenter should be requested to present their public ~~comments-testimony~~ in writing and advised that they are welcome to try public ~~comments-testimony~~ in any future meeting, as long as they are not disruptive. Then, the commenter's microphone can be turned off.
4. Threats to Harm Someone. Threats to harm someone disrupt the purpose of ~~public comments~~testimony, namely to promote public discourse. Commenters making threatening ~~comments-statements~~²¹ during a virtual open public meeting can be asked to stop making threats:
 - a. The Chair should politely ask any commenter making threats to stop because it is disrupting the meeting.
 - b. If the commenter does not stop making threats, the Chair should politely inform the commenter that if they do not stop, their microphone will be turned off, but they may use the rest of their allotted time at the end of the public comment period and they should be asked to remain on the line.
 - c. The commenter should be called upon again at the end of the last public ~~comment~~ testimony and giving their remaining time to ~~comment~~give testimony.
 - d. If the commenter will not stop making threats to harm someone, the commenter should be requested to present their ~~public-comments-testimony~~ in writing and

²¹ Note: Revised for clarity.

advised that they are welcome to try ~~public comments testimony~~ in any future meeting, as long as they do not threaten harm to a person. Then, the commenter's microphone can be turned off.

RCW 42.30.050

Interruptions--Procedure

In the event that any meeting is interrupted by a group or groups of persons to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals interrupting the meeting, the members of the governing body conducting the meeting may order the meeting room cleared and continue in session or may adjourn the meeting and reconvene at another location selected by majority vote of the members. In such a session, final disposition may be taken only on matters appearing on the agenda. Representatives of the press or other news media, except those participating in the disturbance, may attend any session held under this section. Nothing in this section shall prohibit the governing body from establishing a procedure for readmitting an individual or individuals not responsible for disturbing the orderly conduct of the meeting.