

# Cochise County Board of Supervisors

## Rules of Order

### I. Meetings

The Arizona Open Meeting Law A.R.S. § 38-431 shall govern meetings of the Board. The Board shall notify the public of the location, day and time of all meetings as provided by law. All meetings of any County public body, official or advisory committee shall be public and all persons so desiring shall be permitted to attend and listen to the deliberations and proceedings.

- A) Regular: Regular meetings of the Board shall be held on the first and third Tuesday of every month at 10:00 am in the Board of Supervisors' Hearing Room, located at 1415 Melody Lane, Building G, Bisbee, Arizona, unless otherwise noted on the annual adopted Board Meeting schedule, or unless canceled or rescheduled due to exceptional circumstances.
- B) Work sessions: Work Sessions may be called by any member of the Board, or the Clerk of the Board. These meetings are an opportunity for county staff or elected officials to present information and discuss items with the Board of Supervisors and public comments will not be taken.
- C) Special: Special Meetings may be called by any member of the Board, or the Clerk of the Board. Emergency: Emergency Meetings are permitted under A.R.S. §38-431.02 and may be called by the Chairman only in the event of an actual emergency.
- D) Executive Sessions: Executive Sessions are permitted under A.R.S. §38- 431.03.
  - 1) An Executive Session discussion may be held regarding the following issues, in accordance with the legal basis requirements of A.R.S. § 38-431.03(A): personnel matters involving a specific individual (with requisite notice to the specific individuals); confidential records, legal advice; discussion of pending or contemplated litigation; instruction of designated representatives concerning negotiations with employee organizations; instruction of designated representatives concerning negotiations for the purchase of real property; discussions regarding security plans and safety of buildings, operations, and critical infrastructure/information technology and as otherwise provided by law.

- 2) Executive Sessions shall be attended by the Board Members, County Attorney/Deputy County Attorney, County Administrator/Deputy County Administrator, and the Clerk of the Board.
  - 3) The Board may call upon an Elected Official, Department Head, and/or other experts having data pertinent to the particular item. At the conclusion of that item, the attendance of the Executive Session shall return to its original membership.
  - 4) All matters discussed in an Executive Session shall be kept confidential by those attending the meeting. Minutes shall be made available to absent members of the Board and to appropriate State agencies, as permitted by Arizona law. Absent members of the Board reviewing the minutes shall keep the information confidential. Minutes shall not be shared if a Board member's absence was due to a conflict of interest.
- E) Public Hearings: Public hearings are required by Arizona statute or county regulations for the Board to receive public input on particular matters. For example, public hearings are often held for zoning, land use changes, or liquor license applications. Separate posting for the public hearing is the responsibility of each department. Public hearings are held in conjunction with the regular board meetings.

## II. Decorum

- A) A Board member may be interrupted by a "point of order" to any other Board member to correct a mistake. A "point of order" must be timely and is proper when a Board member notices a breach of the rules or when the discussion is in error or not germane to the issue before the Board. A point of order does not require a second and the Chairman's decision shall control. A Board member, County Administrator/Deputy County Administrator, Deputy County Attorney or Clerk of the Board may interrupt the meeting with a "Point of Information" to clarify or correct a mistake or to provide additional relevant information related to the meeting or agenda item.
- B) A Board member shall not indulge in personal attacks, use language tending to hold a member up to contempt, or otherwise impugn the motives of Board members, elected officials, presenters, staff, or the public.
- C) Elected officials, staff, and citizens attending meetings are required to follow proper decorum and good conduct. Unauthorized remarks from the audience, stamping of feet, whistling, yelling, booing, clapping, cheering or similar demonstrations may be grounds for removal.
- D) If any meeting of the Board is interrupted or disrupted by a person or a group to render the orderly conduct of the meeting unfeasible, the Chairman may recess the

meeting or order the person or group interrupting the meeting to leave the meeting or be removed from the meeting. If order cannot be restored, then the Chairman may recess the meeting and continue the session at a different date and time. The Board may only consider matters appearing on the recessed meeting's posted agenda.

### **III. Agenda Creation and Management**

- A) The Clerk of the Board is responsible for agenda item language, formatting and public posting.
- B) The County Administrator shall review draft agenda items and staff presentations for completeness, timeliness, background information and budget impact.
- C) A Board member, an elected official or a department director or designee may add an item to the agenda within eleven days of a regularly scheduled meeting. Chair approval is not required.
- D) The Board shall have access to the draft agenda for the regular Board of Supervisors meeting at least eight days prior to the meeting date.

### **IV. Chairman and Vice-Chairman Selection and Authority**

- A) The Chairman shall serve as the presiding officer of the Board and shall be elected from among the members of the Board for a two-year term at the first regular meeting in January following a regular general election. The election of the Chairman shall be the first order of business at that meeting. Immediately thereafter, the Board shall elect a Vice-Chairman, who shall serve in the absence or incapacity of the Chairman.
- B) The Chairman, or in the Chairman's absence the Vice-Chairman, shall call meetings to order and preserve order, protocol, and decorum during all meetings. All motions, comments, and questions shall be directed through the Chair. The Chairman shall rule on all questions of order and procedure and shall declare adjournment.
- C) The Chairman will have the services of the County Administrator/Deputy County Administrator and Clerk of the Board, if requested by any member, to preserve the order and enforce the rules and orders of the Chair and the Board of Supervisors should a meeting be interrupted or disrupted by a person or group rendering the orderly conduct of the meeting unfeasible. The Chairman may make or second any motion made by a member and shall declare all votes. If any member questions the vote, the Chairman will order a roll call.
- D) The Chairman shall have the authority to limit the time for debate on any topic or item by a member but not the ability to eliminate debate. The Chairman shall make every effort to not allow debate to digress to personal attacks. It should be

emphasized it is not the person, but the measure, issue, or item under question, that is the subject of debate.

## V. Order of Business for Regular Board meetings

- A) Call to Order
- B) Invocation (in accordance with Resolution 25-07).
- C) Pledge of Allegiance
- D) Modifications to the order of the agenda may be made by the Chairman or member without a vote of the membership.
- E) Special Presentations - Special Presentations are informational presentations provided to the Board of Supervisors by outside entities, County departments, or Elected Official offices. These presentations are intended to share updates, reports, recognitions, or other relevant information with the Board and the public. No Board discussion, deliberation, or action is required or taken under this agenda item. Documents or presentations submitted by the presenter will be posted as an attachment to the agenda item.
- F) Request to Speak/Call to the public
  - 1) The policy of the Board is to permit public participation in Board meetings. Pursuant to A.R.S. 38-431, all meetings of any public body official or advisory committee shall be public and all persons so desiring shall be permitted to attend and listen to the deliberations and proceedings. However, Arizona Open Meeting Law does not establish “a right” for the public to participate in the discussion or the ultimate decision. *See* Ariz. Att’y Gen. Op. 78-1.1.
  - 2) The Board may provide an opportunity for members of the public to address the Board during a call to the public. Individuals may also address the Board on specific public hearing or regular agenda items as designated on the agenda. In the interest of maintaining order and facilitating an orderly meeting, any person wishing to address the Board may complete a Request to Speak Form and submit it to the Clerk of the Board no later than 9:00 a.m. on the day of the meeting. The Request to Speak Form may be submitted in person or completed online through the County’s website. Speakers are encouraged to review the Proper Decorum Statement printed on the Request to Speak Form prior to speaking and shall adhere to those decorum standards during their allotted time. A copy of the Request to Speak Form is attached hereto.
  - 3) The Chairman may limit the time for presentation and the number of persons who may address the Board on any agenda item. The general policy of the Board regarding public participation is as follows: three minutes per person or

such other time as may be designated by the Chairman or a majority of the Board. Speakers must state their name and locality for the record before addressing the Board. Individuals may not transfer or yield their speaking time to another person. The Chairman may set a limit for organized group presentations and may set limits for each side if numerous Request to Speak forms are submitted on an agenda item or same topic.

- 4) Following the call to the public, individual Board members may address criticisms from speakers, request staff to examine specific issues, or propose adding matters to a future agenda, in accordance with A.R.S. § 38-431.01(H).
- 5) The Chairman may enforce reasonable time, place, and manner restrictions during the public comment or call to the public period to ensure the orderly conduct of the meeting. A speaker's microphone may be muted or comments curtailed only if the speaker exceeds the allotted time, refuses to comply with established procedural rules, materially disrupts the meeting, or engages in speech that is not protected under the First Amendment, including true threats, incitement to imminent lawless action, fighting words, or legally obscene speech. Speech shall not be restricted based on viewpoint, criticism of the Board, or the content of the speaker's opinions.

G) All Board action on any agenda item shall be made by way of a formal motion. Any Board member may propose a motion on any item on the official agenda. Any motion that is seconded by any member shall be on the floor and must be considered. If a motion is not seconded, the motion fails for a lack of a second and shall be so declared by the Chairman.

#### H) Public Hearing

- 1) The Public Hearing Agenda item begins with a motion and a second on the agenda item. A Board member makes a motion regarding the agenda item, followed by another Board member seconding the motion.
- 2) Next, relevant staff members present background information, analysis, and recommendations related to the hearing topic.
- 3) The Chairman then opens the public hearing by announcing that it is open and explaining the process, including public speaking guidelines and time limits.
- 4) During public participation, the Chairman asks if anyone from the public wishes to speak. While the public is encouraged to fill out a speaker request form, it is not required. Speakers must state their name and locality for the record before addressing the Board, and each speaker is limited to three minutes.
- 5) If present, the applicant or petitioner is given the opportunity to speak.

- 6) The Board then discusses the issue, asks follow-up questions, and deliberates before proceeding to the vote.
- 7) The Chairman calls for a vote on the motion, and the Board votes on the motion.

I) Presentation

- 1) A member, elected official, staff, employees, and individuals related to the noticed agenda item may present to the Board. Documents submitted by the presenter will be posted as an attachment to the agenda item.
- 2) A member may submit additional documentation to the Clerk of the Board regarding the presentation by close of business the day prior to the meeting. These documents will be provided to the other members immediately before the meeting and may be displayed at the meeting at the request of any member. The additional documentation shall be attached to the agenda item after the conclusion of the meeting.

- J) Debate requires a second to have been given to a motion on the table. If a second to a motion has been made the chairperson shall state: "There has been a motion and a second, is there any debate/discussion on the motion?" Compliance with the Arizona Opening Meeting Law requires that no debate shall be allowed on any issue other than the immediate question under consideration before the Board, as listed on the agenda. If any Board Member, the County Attorney/Deputy County Attorney, or County Administrator/Deputy County Administrator reasonably believes that a speaker has strayed from the immediate question, a "point of order" may be called. The Chairman may caution the speaker to address only the immediate question, the Chairman may direct the speaker to relinquish the floor, or the Chairman may make a motion to call the question.

K) Voting

- 1) All members of the Board shall be required to cast either an AYE or NAY vote unless they have previously declared a conflict of interest. To the extent any such conflict has been declared, the member shall refrain from participating in any manner in the matter, including discussion, debate, and executive session.
- 2) In the case of a tie vote on an item, the item shall be considered defeated.
- 3) Board members shall not be permitted to abstain from voting, except when a conflict of interest exists.
- 4) All votes shall be final and only subject to a motion to reconsider, which the Clerk of the Board must place on the agenda of the next immediate regular meeting.

- L) No other business will be discussed or considered by the Board other than those items placed on the agenda.

## **VI. Motions**

The following motions are authorized by this Board and must be followed by a second and a vote:

- 1) Motion to approve: a formal proposal by a member to approve the action, direction, or agenda item.
- 2) Motion to table to a specific date: a request by a member to reschedule the currently set agenda item to a different specific date and time for a formal vote.
- 3) Motion to amend: a member calls for a change in the text or terms of the agenda item or related documents. The request must be specific to the requested addition, subtraction, or substitution.
- 4) Motion to call the question: a member is requesting to end the debate on a pending proposal and bring it to an immediate vote.
- 5) Motion to reconsider: After the decision on any question, any Board Member who voted with the prevailing side may move for reconsideration of the vote which the Clerk of the Board must place on the agenda of the next immediate Regular Meeting. If at the next succeeding Regular Meeting, the motion to reconsider must be properly listed on the agenda.

## **VII. Role of the County Attorney**

- A) The County Attorney, or designated Deputy County Attorney, serves as legal advisor to the Board of Supervisors in its official capacity. The County Attorney represents the Board as a public body and does not represent individual Board members in their personal capacity.
- B) The County Attorney shall attend all regular, special, and executive meetings of the Board unless excused and shall provide legal advice upon request of the Chairman or any member of the Board.
- C) The County Attorney may address the Board without recognition by the Chairman when necessary to:
  - i. Advise the Board regarding compliance with the Arizona Open Meeting Law;
  - ii. Address a declared or potential conflict of interest;
  - iii. Clarify applicable statutes, case law, or procedural requirements;

- iv. Advise the Board of potential legal risk associated with a proposed action;  
or
  - v. Recommend that a matter be discussed in Executive Session pursuant to A.R.S. § 38-431.03.
- D) When legal advice requires confidentiality under Arizona law, the County Attorney may recommend that the Board vote to enter into Executive Session.
- E) The County Attorney does not participate in policy decisions, motions, or voting but serves solely in an advisory capacity.
- F) If a legal objection is raised by the County Attorney during deliberation, the Chairman shall determine whether discussion will continue, be modified, or whether the matter will be deferred.
- G) Notwithstanding the Chairman's decision on a legal objection, the County Attorney may direct the Clerk of the Board to notate in the Minutes—either immediately or within 24 hours of the meeting's adjournment—that objection in order to preserve the official record of the meeting. The County Attorney may object orally or in writing via correspondence to the Clerk of the Board.

### VIII. Definitions

**Emergency** is defined pursuant to A.R.S. § 38-431.02(D), which constitutes an unforeseen urgent circumstance that requires immediate action to prevent serious harm or consequence.

**Conflict of Interest** is defined pursuant to A.R.S. §38-503:

- 1) Any public officer or employee of a public agency who has, or whose relative has, a substantial interest in any contract, sale, purchase or service to such public agency shall make known that interest in the official records of such public agency and shall refrain from voting upon or otherwise participating in any manner as an officer or employee in such contract, sale or purchase.
- 2) Any public officer or employee who has, or whose relative has, a substantial interest in any decision of a public agency shall make known such interest in the official records of such public agency and shall refrain from participating in any manner as an officer or employee in such decision.

**Relative** is defined by A.R.S. §38-502 as a spouse, child, grandchild, parent grandparent, brother, or sister of the whole or half blood and their spouse, and the parent, brother, sister, or child of a spouse

**Substantial Interest** is defined by A.R.S. §38-502 as any nonspeculative pecuniary or proprietary interest, either direct or indirect other than a remote interest.

**Quorum** shall be defined as the presence of two (2) members of the three-member Board of Supervisors. No official action, motion, deliberation, or vote may be taken without a



quorum present. A member participating remotely shall be considered present for purposes of establishing a quorum and voting, provided that such participation complies with the Arizona Open Meeting Law and other applicable legal requirements, the meeting minutes shall properly reflect the manner of attendance, and the public is able to hear the member's participation.

**Remote interest** is defined by A.R.S. §38-502 as

- 1) That of a non-salaried officer of a nonprofit corporation.
- 2) That of a landlord or tenant of the contracting party.
- 3) That of an attorney of a contracting party.
- 4) That of a member of a nonprofit cooperative marketing association.
- 5) The ownership of less than three percent of the shares of a corporation for profit, provided the total annual income from dividends, including the value of stock dividends, from the corporation does not exceed five percent of the total annual income of such officer or employee and any other payments made to him by the corporation do not exceed five percent of his total annual income.
- 6) That of a public officer or employee in being reimbursed for his actual and necessary expenses incurred in the performance of official duty.
- 7) That of a recipient of public services generally provided by the incorporated city or town, political subdivision or state department, commission, agency, body or board of which he is a public officer or employee, on the same terms and conditions as if he were not an officer or employee.
- 8) That of a public school board member when the relative involved is not a dependent, as defined in section 43-1001, or a spouse.
- 9) That of a public officer or employee, or that of a relative of a public officer or employee, unless the contract or decision involved would confer a direct economic benefit or detriment on the officer, the employee or his relative, of any of the following:
  - a) Another political subdivision.
  - b) A public agency of another political subdivision.
  - c) A public agency except if it is the same governmental entity.
- 10) That of a member of a trade, business, occupation, profession or class of persons consisting of at least ten members which is no greater than the interest of the other members of that trade, business, occupation, profession or class of persons.
- 11) That of a relative who is an employee of any business entity or governmental entity that employs at least twenty-five employees within this state and who, in the capacity as an employee, does not assert control or decision-making authority over the entity's management or budget decisions.

- 12) The ownership of any publicly traded investments that are held in an account or fund, including a mutual fund, that is managed by one or more qualified investment professionals who are not employed or controlled by the officer or employee and that the officer or employee owns shares or interest together with other investors.

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