Minutes of PHSDHD Board of Health Meeting

PUBLIC HEALTH SOLUTIONS
District Health Department

Board of Health May 21, 2015

Board Members in Attendance:
Judy Henning          Arthur Craig
Janet Henning         Dr. Walt Gardner
Larry Cerny

Board Members Present via Telephone:
Trudy Clark           Jeremy Christiansen

Board Members Absent:
Dave Bruning          Linda Ament
Dr. Bruce Kennedy

Staff Members in Attendance:
Jane Ford Wittlof, Health Director; Sonya Williamson, Fiscal Aid; Data Specialist, Nicole Reynolds
Administrative Assistant, Dave Wieling, Emergency Response Coordinator

Call to Order:
The meeting was called to order at 8:40 a.m. by Larry Cerny. (Attendees appear above.) Attention was brought to the Open meetings Law.

Directors Report:
It was decided by Larry Cerny to go ahead with the director's report while waiting for one last board member to arrive. Jane briefed the board members on the director's report.

- Legislative on Health Department Funding, there is not enough base funding to keep health departments going without relying on grant funding. An interim study was introduced in the legislature to explore options for ongoing funding of local health departments.
- Bird Flu, is presently primarily an economic concern. However, CDC is watching this to avoid this passing onto people. Department of Ag is leading the State investigation but CDC and the Public health system is watching the potential cross species transmission.
- A system to enable more comprehensive evaluation of performance was purchased. This will help with performance appraisals, job classification and pay scale, by using information from supervisors, peers and public. This will be helpful to the director and others. This will also be very helpful for accreditation.
- Staff Turnover, is an ongoing problem for LHDs. It’s hard to find and keep trained staff to do hard work for limited pay. The lack of security, lower pay and management challenges contribute to turnover. Jane urged the board to bring concerns about this and any other matter to the Board for discussion.
- Immunization Programs, PHS will be reviewing its approach to immunizations as it is very costly to the department. And we want to be sure we are marinating a good approach.
- Sonya is heading up the Accreditation project.
- The undergraduate class helped develop has received wonderful feedback and will be used more extensively in the future.
- Discussion ensued about the importance of Board Development and Attendance. Larry Cerny suggested we do a survey of the board members to find out how we can improve meetings and Board member effectiveness. Larry Cerny will work with Nicole Reynolds on this. Larry Cerny and Dr. Walt Gardner are in the process of speaking with possible board members. PHS will also check into video conferencing for meetings. The phone works but some feel video access adds a higher level of engagement. Another idea brought up was to have a Board Retreat or
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- Dinner once a year so board members can get to know each other better outside the board room.
  - Dave Wieting was introduced as the new PHS Emergency Response Coordinator.

Approval of Agenda:
The agenda was reviewed, item nine was removed. Janet Henning moved to accept the agenda, seconded by Trudy Clark. Motion #1 carried.

Approval of Minutes:
Minutes were emailed before the meeting and distributed at the onset of the meeting. Janet Henning moved to approve the February 19, 2015 minutes, seconded by Dr. Walt Gardner. Motion #2 carried.

Financial Report:
Financial reports through April 2015 were emailed to all board members prior to the meeting. Janet Henning moved to accept the financial report, seconded by Dr. Walt Gardner. Motion #3 carried.

By-laws:
Will be put back onto the next BOH meeting agenda.

Voluntary Life Benefit:
Sonya reported that the staff would like the option to buy additional life insurance and pay for it themselves. Judy Henning motioned to approve, seconded by Dr. Walt Gardner. Motion #4 carried.

Dental provider change:
Sonya reported that we can change dental options for the staff if we want. The board asked that the Staff decide this issue.

Konica Minolta Copier:
Jane Ford Witthoff and Nicole Reynolds reported on the new contract with Konica Minolta. Arthur Craig moved to accept. Judy Henning seconded. At that time Dr. Walt Gardner questioned if there were multiple bids reviewed. There were not multiple because staff thought we only needed multiple bids if there was a company change. Motion was rescinded by Judy Henning and Arthur Craig. More information will be provided to justify the decision and in the future we will assure bids are solicited.

Work plan Strategic Plan:
Jane Ford Witthoff reported information on the strategic issues and the basis for program selections. It is vital for Board members to maintain their interest and discussion of priorities. Would like a feel of the board’s feelings on some projects for the future, so we can prioritize what funding we want to seek.

Open Forum:
Dr. Walt Gardner wanted to note that when it comes to Job satisfaction, staff want to be challenged and make a noticeable difference in the lives of the community they work with.

Dr Gardner reported that he may soon be leaving the Board because of his imminent retirement. He suggested that at least one physician be invited to join the Board. Jane Ford Witthoff t was asked to extend an invitation. She also thanked everyone for coming.

The next Board of Health Meeting is Thursday, July 16, 2015 at 8:30 a.m. in Crete, NE.

Being no further business, the meeting was declared adjourned.
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Respectfully submitted,

Nicole Reynolds
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Strategic issues FY 2015/2016 Addressed in Proposed Budget 071015

Increase access to care: primary, dental mental health

- Healthy pathways: information and referral to needed services,
- Dental program, Children dental health screening, preventive services and referrals for care
- Minority health program; diabetic screening, education and referral
- Diabetes Prevention program
- Health hub: Increase health assessment, education and referral

Increase preventive health services as opposed to treatment services

- Community change: assistance with practice transformation
- Increase walkable communities
- Increase access to fruits and vegetables through Farmers Markets
- Application assistance to increase access to health care and prevention services
- Decrease gaps in immunizations HPV, Tetanus/pertussis, Shingles, pneumonia, flu.
- Injury prevention safe Kids and fall prevention
- Support for Prevention Coalitions in Saline, Thayer, and Fillmore Counties
- Health Hub, health assessments, screening, education and referral.

Decrease behavioral health problems

- Rooted in relationships
- Improve children's behavioral health Saline County through
- Support B4B4H with referrals and support for services
- Healthy pathways to help address behavioral health problems
- Support for Prevention Coalitions in Saline, Thayer, and Fillmore Counties
- Vet Set program

Strengthen Families and family support services

- Healthy Families America Gage and Jefferson
- Support for Prevention Coalitions in Saline, Thayer, and Fillmore Counties
- Rooted in relationships Saline
- Healthy pathways to address children and family needs.
- Application assistance to assist families to get needed services and resources
- Vet Set program

Strengthen rural health system

- Healthy pathways to reduce inappropriate ER use and readmissions
- Revision of community plans
- Emergency response increase bystander intervention in cardiac events
- 1422 practice transformation
- Promotion of rural services
- Application assistance to reduce uninsured.
Community Health Needs Assessment Identified Health and Health System Priorities Addressed in Proposed Budget

Cancer prevalence and mortality
- Increase cancer screening and detection.
- Health hub
- HPV immunizations
- Increase healthful behavior through Health promotion
- Promote walkability
- Increase fruit and vegetable consumption Farmers Markets

Heart Disease mortality and morbidity
- Promotion of healthy lifestyles
- Reducing deaths through bystander intervention; Saving rural hearts

Deaths and injury from unintentional injuries in children and adults
- Promote fall prevention programs such as Tai Chi, Steadi, etc
- Prevention Coalitions Saline, Fillmore and Thayer
- Safe Kids Coalition Fitting Stations, Bike rodeos, etc

High rates of obesity
- 1422 community change increase physical exercise venues, walkability, biking and worksite wellness
- Promotion of community standards

Binge drinking
- Prevention Coalitions Saline, Fillmore and Thayer
- Promotion

Lack of exercise
- 1422 community change increase physical exercise venues, walkability, biking and worksite wellness
- Increase fruit and vegetable consumption Farmers Markets
- Increase exercise venues
Administrative priorities for proposed budget FY2015/2016 PHS performance and effectiveness.

Community Health Needs Assessment and Community Health Implementation Plan
Revise and Improve Policies and procedures
Implement Performance improvement
Improve Quality assurance Program
Enrich Staff development to address Public Health Core Competencies
Board development and Public Satisfaction
Better allocate costs and improve Department effectiveness.

Essential services
Planning
Partnerships
Surveillance
Emergency response
Assessment Data collection
Public information

051915, 071015 mjfw Strategic Issues
June 2015 PHS BOH Survey Results

10 Responses to the Survey.

What day of the week/month works best for you to come to a Board of Health meeting? Example: The 3rd Thursday of the month.

3rd Thurs
3rd Thursday of the month
No opinion
3rd Thursday
As long as it is not the 2nd Wednesday or the 2nd Thursday, I should be able to attend; however, as long as I can conference call any other day of the month is fine.
3rd Thursday
Thursdays are probably the best for me.
3rd Thurs
3rd Thursday
Wednesday 2nd

What is your second choice for day of the week/month for you to come to a Board of Health meeting? Example: The 2nd Tuesday of the month.

Don’t have one
Any morning of the month
No opinion
Any Thursday
As long as it is not the 2nd Wednesday or the 2nd Thursday, I should be able to attend; however, as long as I can conference call any other day of the month is fine.
3rd Tuesday
Mondays would be my second choice.
Don’t have one
4 Thursday
Tuesday 2nd Tuesday

What days of the month will not work for you to attend the Board of Health meeting?

Tues Wed
1st & 3rd Tuesday of month-late afternoon, night 1st Wednesday of the month-afternoon
No opinion
Tuesdays
As long as it is not the 2nd Wednesday or the 2nd Thursday, I should be able to attend; however, as long as I can conference call any other day of the month is fine.
Wed
Tuesday mornings Wednesday mornings Fridays
Wednesday
Tuesday
Monday, Friday

From the answers to these 3 questions it looks like the consensus is: stay with the meetings being held on the 3rd Thursday of the month.

Question 3. What time of day would you prefer?

Morning 75%
Afternoon 25%
Evening 0%
Question 4. Would you like to have monthly meetings or bi-monthly meetings?
Monthly 20%
Bi-Monthly 80%

Question 5. If you could not attend a meeting would you prefer?
Conference call by phone 77.76%
Live feed where everyone can be seen by Telehealth 22.22%

Question 7. Would you like the meetings to be held occasionally in different counties?
Yes 44.44%
No 55.56%

Question 8. If you would like the meetings occasionally held in the other counties, how many times a year should they be held in other counties?
Once a year 42.86%
Every other meeting 28.57%
Rotation each meeting 28.57%

Comments:
1. Would depend on how many meetings we have in a year.
2. Makes no difference.
Konica Copier

BOH Report, 7/16/2015

Nicole and I met with Michael Edwards, current vendor for the Konica Copier, on Tuesday, March 17th. Michael provided us with information on an opportunity to take advantage of Western States Contracting Association (WSCA) since we are a government agency. By using the WSCA Agreement provided to Public Health Solutions, the following benefits were provided:

1. Reduced pricing on the c364 unit leased and installed.
2. Reduced pricing on service for the term of the lease.
3. Locked service rates for the term of the lease. Normally, services costs per copy increase approximately 10-11% each year. Our agreement will lock in the first year pricing and does not increase for the duration of the lease.

Without WSCA, our pricing would have been .01263 for black and white, and .0923 for color. Those rates would have increased 10-11% each year for five years.

Per agreement with WSCA and Konica our current pricing is color 0.0462 and b/w 0.00910. A substantial cost savings to the organization.

Per WSCA, PHS is billed annually for the base volume and overages, and monthly for the lease payment ($218.76). See Konica Minolta Maintenance Agreement.

Jane asked that I research the cost for copies for b/w and color. It is my understanding that there may be a time when PHS would want to charge for copies.

Current market rate for vendors, such as FedEx Office, run .11 cents for B/W and .59 for color (with discounts given on volume). PHS would want to be cognizant of our volume on the copier in order to avoid overages.

If PHS were to institute a charge a rate per copy, an equitable rate for our clients would be .10 for B/W and .20 for color. The increased rate would account for overages that might occur if large amounts of copies were requested.

Respectfully submitted,
Simera Reynolds, M.Ed.

MICHAEL EDWARDS, J.D.
Account Executive - Production Print
Konica Minolta Business Solutions U.S.A., Inc.
620 N. 48th Street Suite 200 Lincoln, Nebraska 68504
Office: 402-465-6963
Mobile: 402-770-1031
APPLICATION

The words you, and your refer to the applicant. The words we, use and our refer to Konica Minolta Business Solutions U.S.A., Inc. (Supplier)

TELEPHONE:

KMS BRANCH: 813 - LINCOLN

REP NAME: MICHAEL EDWARDS

PHONE: 1-402-465-5063

LEGAL COMPANY NAME: ADDRESS:

PUBLIC HEALTH SOLUTIONS

966 E HWY 33

CITY:

CRETE

STATE:

NE

ZIP:

68333

PHONE:

402-826-2800

FED TAX ID #:

80-0008974

CONTACT PERSON:

E-MAIL ADDRESS:

TYPE OF BUSINESS:

STATE OF INCORPORATION:

COORDINATOR

PREPAID

# OF YEARS IN BUSINESS UNDER CURRENT OWNERSHIP:

23

# OF EMPLOYEES:

25

DESCRIPTION OF BUSINESS:

PUBLIC HEALTH DEPARTMENT

BILLING ADDRESS (IF DIFFERENT FROM ABOVE):

CITY:

STATE:

25

LEASE INFORMATION:

DESCRIPTION OF PREMISES:

BIZHUB C364E

PROMPT DUE DATE:

LEASE TERM:

$10,298.02

PURCHASE OPTION:

$15,500.00

$1,500

$1,500

PERSONAL DATA:

NAME 1:

N/A

TITLE 1:

TITLE:

NAME OF OWNER 1:

N/A

ADDRESS:

CITY/STATE/ZIP:

CITY/STATE:

DATE OF BIRTH:

HOME PHONE:

DATE OF BIRTH:

HOME PHONE:

SOCIAL SECURITY #:

OWNERSHIP %:

SOCIAL SECURITY #:

OWNERSHIP %:

REFERENCE DATA:

DATE:

PREVIOUS BANKS

NAME:

Union Bank & Trust Co

PREVIOUS OR SECOND BANK OF APPLICANT:

N/A

402-826-5181

ADDRESS:

N/A

PHONE:

N/A

ACCT #:

ACCT #:

DATE:

ECONOMIC-TO-BE RETAINED BY APPLICANT:

23774 - 01/11/2010

KMS Form © 2004: 01113010-C
BYLAWS
OF
PUBLIC HEALTH SOLUTIONS DISTRICT HEALTH DEPARTMENT

ARTICLE I

PURPOSES

The Public Health Solutions Health Department ("Health Department") is created pursuant to the Interlocal Agreement For The Joint Establishment And Operation Of A Health Department ("Interlocal Agreement") between those Counties set forth in the Interlocal Agreement. These Bylaws are established to govern the Board of Health established by the Interlocal Agreement.

ARTICLE II

MEMBERS

Section 1. Appointment. Members of the Board of Health shall be appointed in the manner set forth in the Interlocal Agreement. The Board of Health shall govern the affairs of the Health Department. Any member appointed to fill a vacancy shall serve the unexpired term of his or her predecessor.

Section 2. Resignation and Removal. Members may resign at any time by delivering written notice to the Board of Health, its President or Secretary. A resignation is effective when the notice is received, unless the notice specifies a later effective date.

Section 3. Quorum and Actions. Seven (7) Members shall constitute a quorum for the transaction of any business at any meeting of the Board of Health. If less than a quorum is present at any meeting, the majority of those Members present may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present. The act of a majority of the Members present at a meeting at which a quorum is present shall be the act of the Board of Health. Notwithstanding the foregoing, the following actions shall require the vote of two thirds of the Members if any County is not represented at the meeting:

A. the incurring of indebtedness extending beyond 12 months or unbudgeted expenditures in excess of $5,000;

B. the sale, assignment, or transfer of assets of the Health Department, which affects its ability to operate;

C. the election of Board officers;

D. and/or the hiring or discharge of the Health Director.

Section 4. Annual and Quarterly Meetings. The annual meeting of the Board of Health shall be held in January of each year at the call of the President, or if the President shall not have called the meeting by December 15, then at the call of the Vice President. If both fail to call the meeting the Secretary shall do so. A meeting shall be held at least quarterly at such times approved by the Board of Health.

Section 5. Special Meetings. Special meetings of the Board of Health may be called by the President or by any two Members upon a written request signed and filed with the Secretary.

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Section 6. Member Notice of Meetings. In addition to any notice as may be required to be given the public, notice of the date, time and place of special meetings shall be transmitted to each Member at the address he/she specifies, at least ten (10) days prior to the date of such meeting, unless the meeting to be called is an “emergency meeting” as described in Section 9. Any member may waive notice of any meeting. The attendance of a member at a meeting shall constitute a waiver of notice of such meeting, except where a member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Health need be specified in the notice or waiver of notice of such meeting.

Section 7. Public Notice of Meetings. The Health Department shall adhere to all requirements of Nebraska’s Open Meetings Act. The Health Department shall give reasonable advance publicized notice of the time and place of each meeting by a method approved by the Board of Health and recorded in its minutes. Such notice shall be transmitted to all members of the public body and to the public. Such notice shall contain an agenda of subjects known at the time of the publicized notice or a statement that the agenda, which shall be kept continuously current, shall be readily available for public inspection at the principal office of the Health Department during normal business hours. Except for items of an emergency nature, the agenda shall not be altered later than twenty-four hours before the scheduled commencement of the meeting. The Board of Health shall have the right to modify the agenda to include items of an emergency nature only at such public meeting.

Section 8. News Media Notice of Meetings. The Secretary or other designee of the Board of Health shall maintain a list of the news media requesting notice of meetings and shall make reasonable efforts to provide advance notice to them of the time and place of each meeting and the subjects to be discussed at that meeting.

Section 9. Emergency Meeting. When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by means of electronic or telecommunication equipment. Notice of the emergency meeting shall be given to the news media as provided by Section 8. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public no later than the end of the next regular business day.

Section 10. Voting. At all meetings of the Board of Health, each Member shall have one vote. A Member of the Board of Health who is present at a meeting of the Board of Health at which action on any matter is taken shall be presumed to have assented to the action taken unless his or her dissent shall be entered in the minutes of the meeting or unless he or she shall file his written dissent to such action with the Secretary of the meeting before the adjournment thereof or forward such dissent by registered mail to the Secretary within three business days following the adjournment of the meeting. Such right to dissent shall not apply to a Member who voted in favor of such action.

Section 11. Committees and Task Groups. The Board of Health may, by resolution or resolutions passed by the Board of Health, appoint one or more committees, with each committee to consist of at least two or more Members of the Board of Health. The Committees shall, to the extent permitted by law, have and may exercise such powers of the Board of Health in the management of the business and affairs of the Health Department as shall be delegated to them. The Board of Health November 20, 2008
may, by resolution or resolutions passed by the Board of Health, also appoint individuals to serve on one or more tasks groups, which may or may not consist of Members. The task groups shall not exercise any powers vested in the Board of Health and any actions recommended by a task group shall first be submitted to the Board of Health or committee appointed by the Board of Health for consideration.

Section 12. Video and Telephonic Conference Meetings. Members of the Board of Health, or any committee appointed by the Board of Health, may participate in a meeting of such Board or committee by means of videoconference or telephone conference in the manner hereinafter provided. Participation by such means shall constitute presence in person at a meeting.

A. Videoconference.

(a) Advance publicized notice is given in accord with the Open Meetings Law, which specifies the locations at which videoconference access is available;

(b) Reasonable arrangements are made to accommodate the public’s right to attend, hear, and speak at the meeting, including seating, recordation by audio or visual recording devices, and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if videoconferencing was not used;

(c) At least one copy of all documents being considered is available to the public at each site of the videoconference or telephone conference;

(d) At least one Member of the Board of Health is present at each site of the videoconference and/or teleconference; and

(e) No more than one-half of the Board of Health’s meetings in a calendar year are held solely by videoconference and/or telephone conference.

B. Teleconference.

(a) Reasonable advance publicized notice is given in accord with the Open Meetings Law, which identifies each telephone conference location at which access to the teleconference is available;

(b) All telephone conference meeting sites identified in the notice are located at a public place which is handicapped accessible and will accommodate the anticipated audience;

(c) Reasonable arrangements are made to accommodate the public’s right to attend, hear, and speak at the meeting, including seating, recordation by audio recording devices, and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if a telephone conference call was not used;

(d) At least one copy of all documents being considered is available to the public at each site of the telephone conference call;

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(e) At least one Member of the Board of Health is present at each site of the telephone conference call identified in the public notices;

(f) The telephone conference call lasts no more than one hour; and

(g) No more than one-half of the Board of Health's meetings in a calendar year are held solely by telephone conference and/or video conference call.

ARTICLE III

OFFICERS

Section 1. Number and Qualification. The members of the Board of Health shall elect a President, a Vice President, a Secretary, and, a Treasurer. The Board of Health may elect other officers with those duties specified. Upon a majority vote of the Board the same person may hold the positions of both secretary and treasurer.

Section 2. Election and Tenure. The Board of Health, at its annual meeting, shall elect the officers. Each officer shall hold office for a term of three years or until his or her successor shall have been duly elected and shall have become qualified, unless his or her service is terminated sooner because of death, resignation or otherwise. Each officer shall be eligible for re-election.

Section 3. Removal. Any officer or agent of the Health Department elected or appointed by the Board of health may be removed by the Board of Health whenever in its judgment the best interests of the Health Department will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent shall not of itself create contract rights.

Section 4. Vacancies. Vacancies occurring in any office by reason of death, resignation or otherwise may be filled by the Board of Health at any meeting.

Section 5. Duties and Authorities of Officers.

A. President. The President shall, preside at all meetings of the Board of Health. The President may sign, deeds, mortgages, contracts or other instruments which the Board of Health has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Health or by these Bylaws to some other officer or agent of the Health Department or shall be required by law to be otherwise signed or executed. The President in general, shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Health from time to time.

B. Vice President. In the absence of the President or in the event of his or her death, inability or refusal to act, the Vice President shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. The Vice President may sign and shall perform such other duties as from time to time may be assigned by the President or by the Board of Health.

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C. Secretary. The Secretary shall attend and keep minutes of the meetings of the Board of Health in one or more books provided for that purpose, see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law, be the custodian of the corporate records, keep a register of the preferred address of each member which shall be furnished to the Secretary by such member, have general charge of the corporate minute books of the Health Department, and in general perform all duties incident to the office of the Secretary and such other duties as from time to time may be assigned by the President or by the Board of Health.

D. Treasurer. The Treasurer shall oversee the receipt, retention, investment and disposition of all funds and securities of the Health Department in accord with the Board of Health adopted Fiscal Policies. He/she shall perform the duties incident to the office of Treasurer and such other duties as from time to time may be assigned by the Board of Health. If required by the Board of Health, the Treasurer or his/her designee shall give bond for the faithful discharge of his or her duties in such sum and with such surety or sureties as the Board of Health shall determine.

E. Management Committee. The Officers and the Past President of the Board shall serve as a Management Committee to provide informal guidance to the Health Director or fulfill other duties as specified by the Board.

ARTICLE IV

BANK ACCOUNT

The funds of the Health Department shall be deposited in such banks, trust funds or depositories as the Board of Health may designate. No funds shall be disbursed except upon vouchers approved by the Director. In the absence of the Health Director, the President or the Vice President (in that order) is authorized to approve such vouchers before any funds are disbursed. In the absence of the Vice President the Secretary is so authorized.

ARTICLE V

AMENDMENT

Except as otherwise provided by the Interlocal Agreement, the Bylaws may be amended or repealed by the Board of Health by a majority vote at any duly constituted annual, regular or special meeting, provided however, that if any County is not represented at the meeting, then any amendment or repeal shall require the vote of a least a two-thirds majority of the Members present.

ARTICLE VI

INDEMNIFICATION OF MEMBERS, OFFICERS, EMPLOYEES AND AGENTS

A. To the extent permitted by law, the Health Department shall indemnify any person who was or is a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, other than an action by or in the right of the Health Department, by reason of the fact that he or she is or was a Member, officer, employee or agent of the Health Department against expenses, including attorney fees, judgments, fines and amount paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceeding if

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he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interest of the Health Department, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful.

B. To the extent permitted by law, the Health Department shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Health Department to procure a judgment in its favor by reason of the fact that he or she is or was a Member, officer, employee or agent of the Health Department, or is or was serving at the request of the Health Department as a Member, officer, employee or agent of another Health Department, partnership, joint venture or other enterprise or as a trustee, officer, employee or agent of an employee benefit plan, against expenses, including attorney fees, actually and reasonably incurred by him or her in connection with the defense or settlement of such action or suit if he or she acted in good faith and in a manner he or she reasonable believed to be in or not opposed to the best interest of the Health Department.

C. The indemnity provided for by this Article shall not be deemed to be exclusive of any other rights to which those indemnified may be otherwise entitled, nor shall the provisions of this Article be deemed to prohibit the Health Department from extending its indemnification to cover other persons or activities to the extent permitted by law or pursuant to any provision in the Bylaws.

D. The Health Department shall indemnify a Member who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which the Member was a party because he or she is or was a Member of the Health Department.

E. To the extent permitted by law, the Health Department shall have the power to purchase and maintain insurance on behalf of any person who is or was a Member, officer, employee or agent of the Health Department against any liability asserted against him or her and incurred in such capacity or arising out of his or her status as such, whether or not the Health Department would have the power to indemnify him or her against such liability.

F. The termination of a proceeding by judgment, order, settlement, conviction, or upon plea of nolo contendere or its equivalent is not, of itself, determinative that the Member did not meet the standard of conduct described in this section.

G. The Health Department may not indemnify a Member under this Article:

(1) In connection with a proceeding by or in the right of the Health Department in which the Member was adjudicated liable to the Health Department; or

(2) In connection with any other proceeding charging improper personal benefit to the Member, whether or not involving action in his or her official capacity, in which the Member was adjudged liable on the basis that personal benefit was improperly received by the Member.
H. Indemnification permitted under this Article in connection with a proceeding by or in the right of the Health Department is limited to reasonable expenses incurred in connection with the proceeding.

ADOPTED BY BOARD OF HEALTH ACTION
NOVEMBER 20, 2008

M JANE FORD WITTHOFF
HEALTH DIRECTOR

November 20, 2008
Call to Order and Roll Call
1. Approval of Agenda
2. Approval of Minutes
3. Financial Reports for Acceptance
4. 2015-2016 Budget Report
5. Directors Report
6. Survey Results Report
7. Konica Minolta Copier Report
8. Review of By-laws
9. Open Forum
10. Next meeting August 20, 2015
11. Adjourn

Scheduled meetings for FY 2015: August 20, 2015, October 15, 2015 Meeting is conducted in accord with the Open Meetings Act. Public Notice of the meeting is published within the Counties of Gage, Saline, Thayer, Jefferson and Fillmore. The Agenda is posed at least 10 days in advance at the Public Health Solutions District health Department Office where it is kept continually current. The Board may go into executive session at any time as permitted in the Open Meetings Act. Meeting Attendance is also available through the Nebraska Telehealth Network by calling the Department. The schedule and locations are posted on the on-line Telehealth schedule and in the Department Office.
Minutes of PHSDHD Board of Health Meeting

PUBLIC HEALTH SOLUTIONS
District Health Department

Board of Health

July 16, 2015

Board Members in Attendance:
Judy Henning    Dr. Bruce Kennedy    Dave Bruning
Jenna Cook      Larry Cerny

Board Members Present via Telephone:
Trudy Clark

Board Members Absent:
Janet Henning    Linda Ament    Jeremy Christiansen    Arthur Craig
Dennis Byars    Paul Utemark

Staff Members in Attendance:
Jane Ford Witthoff, Health Director; Sonya Williamson Fiscal Aide, Nicole Reynolds Administrative
Assistant, Simera Reynolds Health Services Coordinator

Call to Order:
The meeting was called to order at 8:38am by Dr. Bruce Kennedy. (Attendees appear above).

Approval of Agenda:
The agenda was reviewed. Dave Bruning moved to accept the agenda, seconded by Jenna Cook.
Motion #1 carried.

Approval of Minutes:
Minutes were emailed before the meeting and distributed at the onset of the meeting. Judy Henning
moved to approve the May 21, 2015 minutes, seconded by Dave Bruning. Motion #2 carried.

Financial Report:
Financial reports through June 2015 were emailed to all board members prior to the meeting. Sonya
Williamson reported that we had several contracted employees which included High School students
that conducted NEMS surveys for the 1422 grant. We are at the end of the quarter so that’s why funds
look low. PHS is optimistic that we will be slowly getting in money for Health Hub. Judy Henning moved
to accept the financial report, seconded by Larry Cerny. Motion #3 carried.

2015-2016 Budget Report:
Larry Cerny and Sonya Williamson reported on the new annual budget. There are two additional
potential grants that PHS feels will be awarded to help with the budget. A public hearing notice will be
published to present the budget on August 20th, 2015 at PHS.

Directors Report:
Jane talked a little about the Legislative Resolution that may increase health department funds. She
would like to make sure we are working with partners, not take on everything ourselves. She
questioned if our healthcare system is healthy? We have a lot of needs in our five county district. Jane
would like to focus on strengthening our rural hospitals and help people in need, with access to care,
dental, and mental health. Jane also reported we had over $33,000 in flood response costs. She feels
our department did a great job with the flood response. Jane is checking into PHS getting an indirect
cost rate which should give us more of an advantage and help our budget. Jane let the board know that
Dave Wieting is researching replacing our department vehicles. He is checking on getting new vehicles
at government cost, leasing vehicles, or buying used vehicles. He will explore more and report to the board.

**Survey Results:**
Nicole Reynolds reported on the survey that was done in June for the Board. Ten out of 12 board members completed the survey. The survey was conducted to see if the meeting days or times needed changed to ensure better BOH meeting attendance. The results of the survey showed the best for everyone is to keep the meetings bi-monthly on the 3rd Thursday of the month in the morning.

**Konica Minolta Copier:**
At the May meeting the board requested more information on the Konica Minolta Copier Contract. Simera Reynolds reported on the contract and why the decision was made to stay with Konica on our new contract. Larry Cerny moved to accept the financial report, seconded by Judy Henning. Motion #4 carried.

**By-laws:**
A copy of the bi-laws was emailed to the board members and handed out at the meeting. It was agreed upon that members should take a look at this on their own and if they have any issues to bring up at the next meeting. Discussion was had on the rules/laws for board attendance and phone conferencing. Jane said she would check into the laws and procedures on this subject.

**Open Forum:**

Jane Ford Witthoff thanked everyone for coming.

The next Board of Health Meeting is Thursday, August 20, 2015 at 8:30 a.m. in Crete, NE.

Being no further business, Judy Henning motioned to adjourn, seconded by Larry Cerny. Motion #5 carried. The meeting was declared adjourned.

Dr. Bruce Kennedy asked that the executive members go into an executive session at 9:50am. Judy Henning motioned to go into executive session, seconded by Larry Cerny. Motion #6 carried.

Judy Henning motioned to adjourn the executive session, seconded by Dave Bruning. Motion #7 carried. Board came out of executive Session at 10:02am

Respectfully submitted by Nicole Reynolds
Call to Order and Roll Call
1. Agenda
2. Open Public Hearing on the 2015-2016 Budget
3. Minutes for approval
4. Financial Reports for Acceptance
5. Directors Report
6. Open Meeting Laws and Bylaws for discussion
7. Close Public Hearing
8. FY 2015-2016 Budget for Action
9. Next meeting September 17, 2015
10. Adjourn

Scheduled meetings for FY 2015: September 17th, November 19, 2015. Meeting is conducted in accord with the Open Meetings Act. Public Notice of the meeting is published in newspapers within the Counties of Gage, Saline, Thayer, Jefferson and Fillmore. The Agenda is posted at least 10 days in advance at the Public Health Solutions District Health Department Office where it is kept continually current. The Board may go into executive session at any time as permitted in the Open Meetings Act.
NOTICE OF BUDGET HEARING
AND BUDGET SUMMARY

Public Health Solutions

PUBLIC NOTICE is hereby given, in compliance with the provisions of State Statute
Sections 13-501 to 13-513, that the governing body will meet on the August day of 20
2015, at 6:30 o'clock A.M. at 995 E Highway 33, Ste 1 Crete, NE 68333 for the purpose
of hearing support, opposition, criticism, suggestions or observations of taxpayers
relating to the following proposed budget. The budget detail is available at the office of
the Clerk during regular business hours.

2013-2014 Actual Disbursements & Transfers: $ 1,100,032.00
2014-2015 Actual/Estimated Disbursements & Transfers: $ 1,756,287.51
2015-2016 Proposed Budget of Disbursements & Transfers: $ 2,010,665.90
2015-2016 Necessary Cash Reserve: $ 347,555.40
2015-2016 Total Resources Available: $ 2,358,221.30
Unused Budget Authority Created For Next Year
<table>
<thead>
<tr>
<th>FY2015-16 Funding Sources</th>
<th>Funding Period</th>
<th>Funded Amt</th>
</tr>
</thead>
<tbody>
<tr>
<td>BT</td>
<td>July 2015 - June 2016</td>
<td>$93,506.00</td>
</tr>
<tr>
<td>BT - Carry Over</td>
<td>July 2014 - June 2015</td>
<td>$8,000.00</td>
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<tr>
<td>Dental Grant</td>
<td>Oct 2015 - Sept 2016</td>
<td>$150,000.00</td>
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<tr>
<td>DHHS - 1422 Comp 1</td>
<td>Oct 2015 - Sept 2016</td>
<td>$107,943.50</td>
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<td>DHHS - 1422 Comp 2</td>
<td>Oct 2015 - Sept 2016</td>
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<tr>
<td>Early Childhood Initiative</td>
<td>July 2015 - June 2016</td>
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<tr>
<td>ECI Carry Over</td>
<td>May 2014 - April 2015</td>
<td>$11,574.52</td>
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<tr>
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<td>May 2014 - April 2015</td>
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<td>HRSA - RAED Grant</td>
<td>Sept 2015 - Aug 2016</td>
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<tr>
<td>Health Navigator</td>
<td>July 2015 - June 2016</td>
<td>$89,200.00</td>
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<tr>
<td>Home Visitation - Imp</td>
<td>July 2015 - June 2016</td>
<td>$360,480.00</td>
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<td>Home Visitation - Data</td>
<td>July 2015 - June 2016</td>
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<td>Immunization Clinic</td>
<td>July 2015 - June 2016</td>
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<td>Immunization Grant</td>
<td>Jan to Dec (2015 &amp; 16)</td>
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<td>Minority Health</td>
<td>July 2015 - June 2016</td>
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<td>Mini Grants / Contracts</td>
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<td>NALHD - VA Grant</td>
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<td>NALHD - VA Grant Carry Over</td>
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<td>SKIP Flu - Parent Payments</td>
<td>July 2015 - June 2016</td>
<td>$150,158.00</td>
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<td>SKIP Flu - County Contributions</td>
<td>July 2015 - June 2016</td>
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<td>State Appropriations</td>
<td>July 2015 - June 2017</td>
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<td>LB692</td>
<td>July 2015 - June 2016</td>
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**TOTAL FUNDS AVAILABLE**

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<tr>
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</table>

*For those Grants that began prior to July the Funded Amt is what will be available for FY2015-16

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<tr>
<th>FY2015-16 POTENTIAL Funding Sources</th>
<th>Funded Amt</th>
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<tbody>
<tr>
<td>NE Office Hwy Safety (Rural Road Safety)</td>
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**TOTAL GRANT APPLICATIONS**

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**TOTAL FUNDS AVAILABLE**

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**TOTAL BUDGETED EXPENSES**

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**DIFFERENCE**

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<td>-$9,698.97</td>
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Minutes of PHSDHD Board of Health Meeting

PUBLIC HEALTH SOLUTIONS
District Health Department

Board of Health .................................................. July 16, 2015

Board Members in Attendance:
Judy Henning .................................................. Dr. Bruce Kennedy ........................................ Dave Bruning
Dr. Jenna Cook .................................................. Larry Cerny

Board Members Present via Telephone:
Trudy Clark

Board Members Absent:
Janet Henning .................................................. Linda Ament ............................................... Jeremy Christiansen ........................................ Arthur Craig
Dennis Byars .................................................. Paul Utemark

Staff Members in Attendance:
Jane Ford Witthoff, Health Director; Sonya Williamson Fiscal Aide, Nicole Reynolds Administrative Assistant, Simera Reynolds Health Services Coordinator

Call to Order:
The meeting was called to order at 8:38am by Dr. Bruce Kennedy. (Attendees appear above).

Approval of Agenda:
The agenda was reviewed. Dave Bruning moved to accept the agenda, seconded by Jenna Cook. Motion #1 carried.

Approval of Minutes:
Minutes were emailed before the meeting. Judy Henning moved to approve the May 21, 2015 minutes, seconded by Dave Bruning. Motion #2 carried.

Financial Report:
Financial reports through June 2015 were emailed to all board members prior to the meeting. Sonya Williamson reported that we had several contracted employees which included High School students that conducted NEMS surveys for the 1422 grant. We are at the end of the quarter so that's why funds look low. PHS is optimistic that we will be slowly getting in money for Health Hub. Judy Henning moved to accept the financial report, seconded by Larry Cerny. Motion #3 carried.

2015-2016 Budget Report:
Larry Cerny and Sonya Williamson reported on the new annual budget. There are two additional potential grants that PHS feels will be awarded to help with the budget. A public hearing notice will be published to present the budget on August 20th, 2015 at PHS. Jane Ford Witthoff referred the Board to the outline of Strategic Issues and priorities to be addressed by the proposed budget. In addition to program priorities, the department will be focusing on performance improvement and meeting accreditation performance standards. See Attached.

Directors Report:
Jane Ford Witthoff spoke about the Legislative Resolution that will explore ways to fund local health departments. The initial funding has not increased since 2002 and the reliance on grant funding is not conducive to overall sound planning for community needs.

We are working on an indirect cost rate so we can better cover department costs for externally funded projects. Staff is being reorganized in stages and overall there is more of a focus on deliverables.
Minutes of PHSDHD Board of Health Meeting

We will soon begin preparations for our planning process and the community planning required to address selected issues. We responded to the flood which affected 4 of our 5 counties at the cost of $33,000. The department staff did very well. Through our after action assessment we will be addressing some areas to improve our effectiveness.

We are also considering leasing cars as a way to reduce costs and improve responsiveness. This will be discussed at a later date.

Survey Results:
Nicole Reynolds reported on the survey that was done in June for the Board. Ten out of 12 board members completed the survey. The survey was conducted to see if the meeting days or times needed changed to ensure better BOH meeting attendance. The results of the survey showed the best for everyone is to keep the meetings bi-monthly on the 3rd Thursday of the month in the morning.

Konica Minolta Copier:
At the May meeting the board requested more information on the Konica Minolta Copier Contract. Simera Reynolds reported that the copier contract was changed to take advantage of savings potentials. Larry Cerny moved to accept the contract, seconded by Judy Henning. Motion #4 carried.

By-laws:
A copy of the by-laws was emailed to the board members and handed out at the meeting. It was agreed upon that members should take a look at this on their own and if they have any issues to bring up at the next meeting. Discussion was had on the rules/laws for board attendance and phone conferencing. Jane Ford Witthoff will get an interpretation from the State Attorney General regarding the Open Meeting Law and its requirements.

Open Forum:
Jane Ford Witthoff thanked everyone for coming.

The next Board of Health Meeting is Thursday, August 20, 2015 at 8:30 a.m. in Crete, NE.

Being no further business, Judy Henning motioned to adjourn, seconded by Larry Cerny. Motion #5 carried. The meeting was declared adjourned.

Dr. Bruce Kennedy asked that the executive members go into an executive session at 9:50am. Judy Henning motioned to go into executive session, seconded by Larry Cerny. Motion #6 carried.

Judy Henning motioned to adjourn the executive session, seconded by Dave Bruning. Motion #7 carried. Board came out of executive Session at 10:02am

Respectfully submitted by Nicole Reynolds
Director's Report to PHS Board of Health
August 20, 2015

I am doing a self-assessment of my performance as Health Director. I am using the results of two Questionnaires. I have completed a preliminary assessment and work plan based upon the results of the first one through which staff rated management functions. The second ranking to be completed by staff will be their assessment of how well they think I complete my required duties and functions. The survey will be sent to those identified as may peers, the Board of Health and grantors.

Staff is completing required basic training as a public health employee. A workforce development plan is being drawn so staff can begin addressing required competencies. An assessment of competencies was completed previously with the assistance of the UNMC College of Public Health.

Open meeting requirements were clarified as requested by the Board of Health. The desirability of making by-law changes will be discussed by the Board at a later date.

Art Craig passed away this past week. His funeral was on Saturday. Flowers and condolences were sent on behalf of the Board and staff. Jefferson County is soliciting applications from persons interested in completing Commissioner Craig's unexpired term. A panel composed of the County Clerk, County Treasurer and County Attorney will review applications, interview candidates and make the selection.

Paul Utemark will be attending the Board meeting by phone as he eases back into all of his duties. He will be returning to the Board by phone as he paces his return to work. He and the other phone attendee will not be voting or be counted towards the quorum.

We were awarded a grant by Highway Safety to help improve rural road safety. We also received a small contract to supplement the Bioterrorism contract to help with preparations for a possible Ebola outbreak.

We will be exploring a possible application for funds to assist with accreditation through NACCHO.

The PHS website revision will be launched this month. Because of its scope we expect we will be continually enhancing it for some time to come.
We will be doing a district wide survey of the community’s knowledge of CPR and response to cardiac events.

We are preparing a more readable annual report this year. We are hoping it will enable the public to better understand what we do and our impact.

We are looking for someone who might help us establish our indirect cost rate. While I can do this, I think my time would be better spent in other areas. This assumes that we can get someone to assist at a reasonable price. This rate is badly needed as evidenced by the overwhelming burden the new grants put on Sonya.

Nicole has resigned to take a job in coding. This has long been her desire. Nonetheless she will be completing an exit interview so we can work to improve retention of employees.

Adam is still working hard to recover revenue that we earned through the Health Hub Contract.

It seems unlikely that dental services for children will be high enough in the MCH planning process to make the project eligible for funding beyond its two year award. Consideration will be needed on the future of the program. 2,100 children have been served since its inception.

We will begin our Community Health Needs Assessment process this fall.

Jane Ford Witthoff, Director.
Strategic issues FY 2015/2016 Addressed in Proposed Budget 071015

Increase access to care: primary, dental mental health

  Healthy pathways: information and referral to needed services,
  Dental program, Children dental health screening, preventive services and referrals for care
  Minority health program; diabetic screening, education and referral
  Diabetes Prevention program
  Health hub. Increase health assessment, education and referral

Increase preventive health services as opposed to treatment services

  Community change: assistance with practice transformation
  Increase walkable communities
  Increase access to fruits and vegetables through Farmers Markets
  Application assistance to increase access to health care and prevention services
  Decrease gaps in immunizations HPV, Tetanus/pertussis, Shingles, pneumonia, flu.
  Injury prevention safe Kids and fall prevention
  Support for Prevention Coalitions in Saline, Thayer, and Fillmore Counties
  Health Hub, health assessments, screening, education and referral.

Decrease behavioral health problems

  Rooted in relationships
  Improve children's behavioral health Saline County through
  Support BVBH with referrals and support for services
  Healthy pathways to help address behavioral health problems
  Support for Prevention Coalitions in Saline, Thayer, and Fillmore Counties
  Vet Set program

Strengthen Families and family support services

  Healthy Families America Gage and Jefferson
  Support for Prevention Coalitions in Saline, Thayer, and Fillmore Counties
  Rooted in relationships Saline
  Healthy pathways to address children and family needs.
  Application assistance to assist families to get needed services and resources
  Vet Set program

Strengthen rural health system

  Healthy pathways to reduce inappropriate ER use and readmissions
  Revision of community plans
  Emergency response increase bystander intervention in cardiac events
  1422 practice transformation
  Promotion of rural services
  Application assistance to reduce uninsured.
Community Health Needs Assessment Identified Health and Health System Priorities Addressed in Proposed Budget

Cancer prevalence and mortality
  Increase cancer screening and detection.
  Health hub
  HPV immunizations

Increase healthful behavior through Health promotion
  Promote walkability
  Increase fruit and vegetable consumption Farmers Markets

Heart Disease mortality and morbidity
  Promotion of healthy lifestyles
  Reducing deaths through bystander intervention; Saving rural hearts

Deaths and injury from unintentional injuries in children and adults
  Promote fall prevention programs such as: Tai Chi, Steadi, etc
  Prevention Coalitions Saline, Fillmore and Thayer
  Safe Kids Coalition Fitting Stations, Bike rodeos, etc

High rates of obesity
  1422 community change increase physical exercise venues, walkability, biking and worksite wellness
  Promotion of community standards

Binge drinking
  Prevention Coalitions Saline, Fillmore and Thayer
  Promotion

Lack of exercise
  1422 community change increase physical exercise venues, walkability, biking and worksite wellness
  Increase fruit and vegetable consumption Farmers Markets
  Increase exercise venues
Administrative priorities for proposed budget FY2015/2016 PHS performance and effectiveness.

Community Health Needs Assessment and Community Health Implementation Plan
Revise and Improve Policies and procedures
Implement Performance improvement
Improve Quality assurance Program
Enrich Staff development to address Public Health Core Competencies
Board development and Public Satisfaction
Better allocate costs and Improve Department effectiveness.

Essential services
Planning
Partnerships
Surveillance
Emergency response
Assessment Data collection
Public information

051915, 071015 mjfw Strategic Issues
Board of Health
081115

Clarification of points raised at last Board of Health meeting:

Board members who call in to participate by teleconference or audio conference without PHS arranged public access cannot vote nor can they be counted towards a meeting quorum.

This means we can offer the videoconference or teleconference access at only ½ of our meetings with the following requirements. Locations for teleconference or audio conference must be publicized in advance, These must be in public places that allow public participation, At least 1 Board member must be on site and in attendance. At least 1 copy of the meeting materials to be considered must be at each site for public access. :

____________________________________

Attached is the Open Meeting summary that is on the Attorney general's website. Items about which other questions have been raised earlier are addressed.

A. Those who call in on a conference call or videoconference call that has not been prearranged with public access provisions (noted below) cannot vote and cannot count towards a quorum.

B. Board members can participate and vote by teleconference or videoconference if prior arrangements have been made to provide public access. This means:

1. Reasonable advance notice of the meeting and location of the teleconference or videoconference sites have to be given

2. The locations must be in public settings where reasonable arrangements are made to accommodate the public's right to attend, hear and speak at the meeting, including seating, recording by audio and visual recording devices, and an reasonable opportunity for input such as public comment or
questions to at least the same extent as would be provided absent videoconferencing

3. At least one copy of all documents being considered is available to the public at each site of the teleconference or videoconference,

4. At least one member of the Board is present at each site of the teleconference or videoconference,

5. Teleconference or video conference cannot be used in one-half of the public body's meetings in a calendar year.

C. The agenda for a meeting must be included in the meeting notice or the location of the agenda must be specified.

D. The agenda cannot be changed within 24 hours of the scheduled meeting date and time.

E. A telephone conference call may not last more than 2 hours.

F. Any action taken shall be by roll call vote of the public body in open session, and the record shall state how each member voted or if the member was absent or not voting. The vote to elect leadership within a public body may be by secret ballot, but the total number of votes for each candidate shall be recorded in the minutes.

G. The Board may hold an emergency meeting without reasonable advance public notice, however, the nature of the emergency must be stated in the minutes and any formal action must only pertain to the emergency. Complete minutes of the emergency meeting specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public no later than the end of the next regular business day.

H. The Board may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary (1) for the protection of the public interest, or (2) for the prevention of needless injury to an individual, if such individual has not requested a public meeting.
I. The subject matter of the closed session and reason necessitating the closed session shall be identified in the motion to hold a closed session. The vote to hold a closed session must be taken in open session, and the entire closed session motion, the vote of each member on the question of holding a closed session, and the time when the closed session commences and ends must be recorded in the minutes. If the motion to close passes, then the presiding officer shall restate on the record immediately prior to the closed session the limitation of the subject matter of the closed session. The meeting must be reconvened in open session. Any collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order, or ordinance or formation of a position or policy is considered formal action and must be made outside of the closed session.

These clarifications will require changes on our Bylaws. I will prepare these for upcoming Board action.

With best regards,

M Jane Ford Witthoff  
Health Director  
Public Health Solutions  
995 East Highway 33, Suite1  
Crete, NE 68333  
402 826 3880  
F 402 826 4101  
www.phsneb.org
NEBRASKA OPEN MEETING SUMMARY


* BASIC PROVISION
* PUBLIC BODIES WHICH ARE COVERED
* MEETING DEFINED
* PUBLIC MEETINGS BY VIDEOCONFERENCEING AND TELEPHONE CONFERENCE CALL
* PUBLIC MEETINGS; NOTICE REQUIRED AND AGENDA
* EMERGENCY MEETINGS
* PUBLIC MEETINGS; MINUTES AND VOTING PROCEDURES
* PUBLIC MEETINGS; RIGHTS OF THE PUBLIC ATTENDING
* CLOSED SESSIONS OF A PUBLIC BODY
* CIRCUMVENTION OF THE OPEN MEETINGS ACT
* ACTIONS FOR ENFORCEMENT
* CRIMINAL SANCTIONS

BASIC PROVISION

A. The basic statement of our state policy on public meetings is found at Neb. Rev. Stat. § 84-1408. That statute provides, "[i]t is hereby declared to be the policy of this state that the formation of public policy is public business and may not be conducted in secret. Every meeting of a public body shall be open to the public in order that citizens may exercise their democratic privilege of attending and speaking at meetings of public bodies, except as otherwise provided by the Constitution of the State of Nebraska, federal statutes, and the Open Meetings Act."

1. History. Section 84-1408 was passed as a part of LB 325 in 1975. That bill repealed previously existing public meetings provisions and substituted new provisions which were intended to preserve the features of the previous law and strengthen and expand their authority. Government Committee Statement on LB 325, 84th Nebraska Legislature, First Session (1975). LB 325 was passed to ensure that all meetings of public bodies would be open to the public, except when protection of the public interest clearly called for a closed session concerning specific matters. Id. 2004 Neb. Laws LB 821, § 34 formally established the name of §§ 84-1407 through 84-1414 as the "Open Meetings Act."


4. **Exceptions.** Section 84-1408 requires open meetings except "as otherwise provided by the Constitution of the State of Nebraska, federal statutes, and the Open Meetings Act." The Attorney General has concluded that the Nebraska Legislature is not covered under the open meetings statutes because the Nebraska Constitution separately provides for public access to that body. *Op. Atty Gen. No. 120* (July 25, 1985).

5. **Subsequent legislative limitations.** The Legislature holds the power to decide the scope of citizen access to governmental meetings. As a result, the Legislature has the right to limit access to public meetings and the effect of the Open Meetings Act through later statutory provisions which provide that certain information in the possession of government should remain confidential without exception or limitation. *Wasikowski v. The Nebraska Quality Jobs Board*, 264 Neb. 403, 648 N.W.2d 756 (2002).

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**PUBLIC BODIES WHICH ARE COVERED**

**B.** Under § 84-1409(1), public bodies covered by the public meetings statutes include: (1) governing bodies of all political subdivisions of the State, (2) governing bodies of all agencies of the executive department of state government created by law, (3) all independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies created pursuant to law, (4) all study or advisory committees of the executive department of the state whether of continuing or limited existence, (5) advisory committees of the governing bodies of political subdivisions, of the governing bodies of agencies of the executive branch of state government, or of independent boards, commissions, etc., and (6) "instrumentalities exercising essentially public functions."

1. **History.** The initial portion of § 84-1409(1) defining public bodies was originally part of LB 325 passed in 1975. It has been amended several times to add additional entities to the list of bodies covered, and the Certificate of Need Review Committee was removed in 1997. *See 1997 Neb. Laws LB 798; 1989 Neb. Laws LB 429 and LB 311; 1983 Neb. Laws LB 43.* The language concerning "instrumentalities exercising essentially public functions" was added in 1989 to reach entities such as the Nebraska Investment Finance Authority. *Floor Debate on LB 311, 91st Nebraska Legislature, First Session, May 9, 1989, at 6039, 6040.*

2. **Cases and Opinions.** A number of cases and opinions of the Attorney General deal with various aspects of the definition of public body found in § 84-1409(1).

   a. "Political subdivision" is not defined within the public meetings statutes. However, the Attorney General has indicated that generally the term denotes any subdivision of a state which has as its purpose carrying out functions of the state which are inherent necessities of government and which have always been regarded as such by the public. 1979-80 Rep. Atty Gen. 140 (Opinion No. 98, dated April 25, 1979). Presumably, this term includes cities, counties, villages, etc., and their governing boards are covered by the open meetings statutes.
b. In *Nixon v. Madison County Agricultural Society*, 217 Neb. 37, 348 N.W.2d 119 (1984), the Court held that a county agricultural society, organized under the Nebraska statutes, was subject to the provisions of the open meetings law. The Court noted that, although the society at issue resembled a private corporation in some respects, the fact that it had the right to receive support from the public revenue gave it a public character. The agricultural society apparently was an "independent board . . . created by constitution, statute, or otherwise pursuant to law." Based upon the *Nixon* case, the Attorney General concluded that county extension services which have the right to receive support from public revenues are subject to the open meetings law. Op. Att'y Gen. No. 219 (July 24, 1984). Also based upon the *Nixon* case, the Attorney General has indicated that county agricultural societies are subject to the open meetings statutes. Op. Att'y Gen. No. 91007 (January 28, 1991). In addition, Neb. Rev. Stat. § 2-238 requires that result.

c. In *Marks v. Judicial Nominating Commission for Judge of the County Court of the 20th Judicial District*, 236 Neb. 429, 461 N.W.2d 551 (1990), the Court held that the open meetings statutes do not apply to the activities of a judicial nominating commission which is meeting to select nominees for judicial vacancies. Such a nomination procedure does not involve the formulation of public policy subject to the act.

d. The Nebraska Court of Appeals, in *Johnson v. Nebraska Environmental Control Council*, 2 Neb. App. 263, 509 N.W.2d 21 (Neb. Ct. App. 1993), held that the open meetings statutes apply to the governing bodies of all agencies of the executive branch of government, including the Nebraska Environmental Control Council.

e. In *State ex rel. Newman v. Columbus Township Board*, 15 Neb. App. 656, 735 N.W.2d 399 (Neb. Ct. App. 2007), the Nebraska Court of Appeals concluded that the electors of a Nebraska township, when assembled at the township's annual meeting, constitute a governing body of the township which is subject to the Open Meetings Act and its provisions concerning notice and preparation of an agenda.

f. The Nebraska Court of Appeals indicated in *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (Neb. Ct. App. 2009) that a county board of equalization is a public body as defined in § 84-1409. The court also held in that case that when two boards are made up of the same members, the duties and functions of the two boards, rather than their membership, determine if they are the same or separate and distinct bodies.

g. Committees of faculty, administration and students created by the Board of Regents of the University of Nebraska to advise the Chancellor of the University in his administrative/management function with respect to budget cuts were part of the management structure of the University and not public bodies subject to the open meetings statutes. Op. Att'y Gen. No. 92020 (February 12, 1992).

h. In Op. Att'y Gen. No. 11 (January 20, 1983), the Attorney General indicated that the Environmental Control Council is a public body subject to the open meetings law. On the other hand, the Department of Environmental Control is not. Section 84-1409 applies to governing bodies of state agencies, not the agencies themselves.

i. An employee grievance appeal hearing conducted by a hearing officer is not a meeting of a public body since the word "body" is commonly understood to refer to a group or number of persons, and thus does not include an individual conducting a hearing. Op. Att'y Gen. No. 210 (May 16, 1984).
j. In 1988, the Attorney General indicated that the Central Low-Level Radioactive Waste Compact Commission was not subject to the Nebraska open meetings law because it was a multi-state body which was not created by constitution or statute and which was not a governing body of a Nebraska state agency. Op. Att'y Gen. No. 89008 (February 14, 1989). However, Neb. Rev. Stat. § 71-3521 (the Waste Compact agreement itself) provided that meetings of the Compact Commission must be open to the public with reasonable advance publicized notice, and that the Compact Commission must adopt by-laws consistent in scope and principle with the open meetings law of the host state. Section 71-3521 was repealed by 1999 Neb. Laws LB 530, § 2, and Nebraska withdrew from the Central Low-Level Radioactive Waste Compact.

k. A county welfare board is subject to the open meetings law as an independent board created by statute. 1979-80 Rep. Att'y Gen. 351 (Opinion No. 244, dated March 4, 1980).

l. In Op. Att'y Gen. No. 95014 (February 22, 1995), the Attorney General indicated that the Mayor's Citizen Review Board, appointed by the Mayor of Omaha to advise the Mayor with respect to alleged misconduct of police officers, was not subject to the open meetings statutes because it did not fall under the definition found in § 84-1409(1), and because the board was essentially an administrative body which was part of the management structure of the City.

m. In Op. Att'y Gen. No. 93065 (July 27, 1993), the Attorney General concluded that parole reviews under Neb. Rev. Stat. § 83-1,111 may be closed, and are not subject to open meetings requirements.

n. The Excellence in Education Council created to make recommendations to the Governor regarding selection of projects for Education Innovation grants is a public body which is subject to the open meetings statutes, and its decisions concerning specific recommendations must be done in open session. Op. Att'y Gen. No. 94092 (November 22, 1994).

o. The Division of Rehabilitation Services of the State Department of Education is a public body, and its business must be conducted in compliance with the provisions of the open meetings statutes. Op. Att'y Gen. No. 93091 (October 22, 1993).


r. The Nebraska State Board of Agriculture (the State Fair Board) is not a public body which is subject to the Open Meetings Act, primarily because it has no statutory right to public revenue and also because of case law which indicates that it is a private corporation. Op. Att'y Gen. No. 01038 (November 27, 2001).
s. A county clerk, county attorney and county treasurer acting as a group under § 32-567(3) to make an appointment to fill a vacancy on a county board constitute a public body which is subject to the Open Meetings Act. Op. Att’y Gen. No. 97050 (September 18, 1997).

t. The Attorney General has indicated informally that the Nebraska Board of Pardons and the Board of Inquiry and Review created under Neb. Rev. Stat. §§ 80-317 through 80-319 to receive and act upon applications submitted for membership in Nebraska Veterans Homes are subject to the state’s open meetings statutes.

3. **Other Statutes.** Neb. Rev. Stat. § 2-238 requires county agricultural societies and county fair boards to comply with the open meetings statutes. Previously, under Neb. Rev. Stat. § 85-1502 all coordination activities conducted by the association of community college area boards were subject to the open meetings statutes. This provision was repealed in 2013 Neb. Laws LB 211, § 3.

4. **Exceptions.** The latter portion of § 84-1409(1) provides that two entities are not public bodies for purposes of the Open Meetings Act:

   a. **Subcommittees.** Subcommittees of the various bodies described earlier in § 84-1409 are not public bodies under the Open Meetings Act unless a quorum of the public body attends a subcommittee meeting, or unless those subcommittees are holding hearings, making policy or taking formal action on behalf of the parent body. For example, in *Meyer v. Board of Regents of the University of Nebraska*, 1 Neb. App. 893, 510 N.W.2d 450 (Neb. Ct. App. 1993), the court indicated that meetings of an executive subcommittee of the University of Nebraska Board of Regents with the University President to discuss his tenure were not subject to the open meetings laws because of that portion of the statute. Section 84-1409(1) was also amended by 2011 Neb. Laws LB 366 to specifically provide that all meetings of subcommittees of the Nebraska Environmental Trust Board established to rate grant applications under Neb. Rev. Stat. § 81-15,175 are subject to the Open Meetings Act.

   i. In *City of Elkhorn v. City of Omaha*, 272 Neb. 867, 880-881, 725 N.W.2d 792, 805-806 (2007), the court indicated that, while “subcommittee” is not defined in the Open Meetings Act, a subcommittee is generally a “group within a committee to which the committee may refer business.” In addition, “making policy,” which subjects a subcommittee to the Open Meetings Act under § 84-1409, apparently includes “receiving background information about a policy issue to be decided.” *Id.* In contrast, “nonquorum gatherings” of members of a public body “intended to obtain information or voice opinions” do not seem to involve violations of the Act. *Id.*

   ii. The language applying the open meetings statutes to certain subcommittee meetings when there is a quorum of the public body present was added to § 84-1409(1) as a result of LB 1019 passed by the Legislature during the 1992 regular session.

   b. **Entities Conducting Judicial Proceedings.** Entities conducting judicial proceedings are not public bodies under the Open Meetings Act unless the court or other judicial body is exercising rulemaking authority, deliberating, or deciding upon the issuance of administrative orders. LB 325, the original open meetings statute of 1975, was directed
strictly at policy making bodies which were legislative or quasi-legislative. Floor Debate on LB 325, 84th Nebraska Legislature, First Session, May 14, 1975, at 4618.

i. In McQuinn v. Douglas County School District No. 66, 259 Neb. 720, 612 N.W.2d 198 (2000), the Nebraska Supreme Court held that a hearing before a school board on the question of the nonrenewal of a probationary certificated teacher’s contract where the matters before the board pertained solely to disputed adjudicative facts involved a judicial function, and on that basis, the hearing was not subject to the open meetings statutes. In that context, a school board exercises a judicial function if it decides a dispute of adjudicative fact or if a statute requires it to act in a judicial manner. Adjudicative facts are those ascertained from proof adduced at an evidentiary hearing which relate to a specific party. The McQuinn case is discussed further in Bligh v. Douglas County School District No. 0017, 2008 WL 2231063, 2008 Neb. App. LEXIS 106 (Neb. Ct. App. 2008) (Not approved for publication).


iii. Parole hearings conducted by the Board of Parole are judicial in nature and not subject to the open meetings statutes. However, other statutes specifically pertaining to operation of the Board of Parole require that such parole hearings be conducted with elements of notice and in a manner open to the public. Op. Att’y Gen. No. 93065 (July 27, 1993).

iv. When the State Board of Education holds hearings in contested cases under the state Administrative Procedure Act, such hearings are not subject to the Open Meetings Act. The Board is not required to give notice of such hearings to the public under those statutes, and it may conduct its deliberations and decision-making process for such hearings by a telephone conference call. Op. Att’y Gen. No. 99046 (November 15, 1999).

MEETING DEFINED

C. Under § 84-1409(2), meetings, for purposes of the open meetings statutes, are defined as "all regular, special, or called meetings, formal or informal, of any public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action of the public body." Section 84-1410(5) also provides that the open meetings statutes shall not apply to "chance meetings or to attendance
at or travel to conventions or workshops of members of a public body at which there is no meeting of the body then intentionally convened, if there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction, or advisory power."

1. The legislative history of LB 325, from 1975, indicates that meetings of a public body do not include social meetings or meetings which were not called by the body. Government Committee Hearing on LB 325, 84th Nebraska Legislature, First Session (1975) at 3.

2. However, § 84-1409 was amended by LB 43 in 1983 to include "formal or informal" meetings. The legislative history of that bill indicates that a meeting between a state senator and the members of a local school board to discuss legislation would constitute an "informal called meeting." Government, Military and Veterans' Affairs Committee Hearing on LB 43, 88th Nebraska Legislature, First Session (1983) at 5-8.

3. The provision of § 84-1410(5) pertaining to "chance" meetings, etc., was added by LB 43 in 1983.

4. The legislative history of LB 43 from 1983 indicates that a "meeting" does not occur absent a quorum. Government Military and Veterans' Affairs Committee Hearing on LB 43, 88th Nebraska Legislature, First Session (1983) at 19. In addition, the Attorney General has concluded that the presence of a majority of the members of a public body is necessary for a meeting to occur. 1975-76 Rep. Att'y Gen. 150 (Opinion No. 116, dated August 29, 1975). In Johnson v. Nebraska Environmental Control Council, 2 Neb. App. 263, 509 N.W.2d 21 (Neb. Ct. App. 1993), the Nebraska Court of Appeals indicated that "private quorum conferences" are an evasion of the law. The Nebraska Supreme Court also indicated that subgroups of the Omaha City Council constituting less than a quorum of that body were not public bodies on that ground. City of Elkhorn v. City of Omaha, 272 Neb. 867, 725 N.W.2d 792 (2007).

5. Even when a quorum of public body is present in one location, there is no meeting under the Open Meetings Act if there is no interaction or discussion among members of the body regarding policymaking for the public body. Schauer v. Grooms, 280 Neb. 426, 786 N.W. 2d 909 (2010). The secret formation of public policy forbidden by the Open Meetings Act is the formation of public policy as a group. id. As a result, there is no meeting of a public body based upon the unspoken thoughts of its members who happen to be sitting in the same room. id. The Open Meetings Act is not so broad and sweeping as to require public access to any gathering of any sort that is attended by a quorum of a public body. id.

6. In Johnson v. Nebraska Environmental Control Council, 2 Neb. App. 263, 509 N.W.2d 21 (Neb. Ct. App. 1993), the Court of Appeals held that informational sessions where the Council heard reports from staff of the Department of Environmental Control were briefings which were subject to the requirements of the open meetings statutes. The Court stated that listening and exposing itself to facts, arguments and statements constitutes a crucial part of a governmental body's decision making. As a result, receiving information triggers the requirements of the statutes, and the open meetings law applies to meetings at which briefing or the formation of tentative policy takes place, as well as to meetings where action is contemplated or taken.

7. Rauert v. School District I-R of Hall County, 251 Neb. 135, 555 N.W.2d 763 (1996), involved allegations by the plaintiff that a quorum of the defendant school board met in the office of the superintendent of schools on a regular basis for "clandestine" meetings before the beginning of most scheduled board meetings where business was discussed and decided and checks were signed to pay claims which had not been approved in public session. The board then allegedly moved and voted on business at its public meeting with little or no discussion in order to deprive the public of the right to be fully informed. The Supreme Court held that the District Court properly
failed to find a violation of the Open Meetings Act with respect to those allegations in the absence of any evidence as to the specific dates and details of the alleged "clandestine" meetings.

8. In *Schauer v. Grooms*, 280 Neb. 426, 786 N.W.2d 909 (2010), the Nebraska Supreme Court considered the propriety of a situation where two separate groups of a city council, neither of which constituted a quorum of that body, toured an ethanol facility for informational purposes. The court ultimately concluded that there was no meeting of the city council as a result of the tours—there was no quorum of the council present, the small groups were merely acquiring information, and there was no evidence that the council was, through the tour, attempting to reach a consensus and form public policy in secret.

9. In *Schauer*, the court also noted that the Open Meetings Act does not require policymakers to remain ignorant of the issues they must decide until the moment the public is invited to comment on a proposed policy. Moreover the public would be ill served by restricting policymakers from reflecting on and preparing to consider proposals, or from privately suggesting alternatives. As a result, the court indicated that the Legislature, by excluding nonquorum subgroups from the definition of a public body, balanced the public’s need to be heard on matters of public policy with a practical accommodation for a public body’s need for information to conduct business. *Schauer v. Grooms*, 280 Neb. 426, 786 N.W.2d 909 (2010) (citing *City of Elkhorn v. City of Omaha*, 272 Neb. 867, 725 N.W.2d 792 (2007)).

10. The Attorney General has indicated that an "emergency meeting" may be conducted by electronic and telecommunications equipment including radio and telephone conferences. 1975-76 Rep. Att’y Gen. 160 (Opinion No. 116, dated August 29, 1975). On the other hand, the open meetings statutes do not generally authorize the use of telephone conference calls for non-emergency meetings of a public body, and absent members of a public body may not be counted to achieve a quorum through the use of a conference call. Op. Att’y Gen. No. 92019 (February 11, 1992). [Section 84-1411 has been amended a number of times to allow specified public bodies including the governing body of an entity formed under the Interlocal Cooperation Act, the Joint Public Agency Act or the Municipal Cooperative Financing Act, the board of an educational service unit, the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act, a community college board of governors, the governing body of public power district, the governing body of a public power and irrigation district, or the Educational Service Unit Coordinating Council to meet by telephone conference call in certain circumstances. See 1999 Neb. Laws LB 461; 2000 Neb. Laws LB 968; 2007 Neb. Laws LB 199; 2009 Neb. Laws LB 36, 2012 Neb. Laws LB 735, 2013 Neb. Laws LB 510 and Section D.2. below.]

11. An "informational and educational" meeting of a public body governing a political subdivision where members generally discuss matters pertaining to their subdivision, hear reports from various department heads of the subdivision as to their duties and learn the workings of the subdivision is a meeting of the public body for "briefing" purposes which is subject to the open meetings statutes. Op. Att’y Gen. No. 92043 (March 17, 1992). In addition, the Attorney General has also indicated informally that a meeting of a public body "for the purpose of receiving training or doing planning (such as a retreat)" should probably be treated as subject to the Open Meetings Act.

12. In Op. Att’y Gen. No. 94035 (May 11, 1994), the Attorney General indicated that discussions and deliberations by the State Board of Education in connection with the selection of a Commissioner of Education were subject to the requirements of the open meetings statutes. In addition, that opinion indicated that interviews with individual candidates for the Commissioner position were also subject to the requirements of the open meetings statutes, if a quorum of the
Board was present for those interviews. However, in the latter interview situation, a brief closed session (as discussed below) might be warranted for a candid discussion by the Board and the candidate which might potentially elicit responses injurious to the reputation of an individual.

13. A workshop held by the Board of Regents of the University of Nebraska with a professional facilitator to discuss communication practices and the roles of the Board and the University President was not subject to the Open Meetings Act on the basis of § 84-1410(5) which exempts chance meetings or attendance at or travel to conventions or workshops. The University also asserted that there would be no briefing, discussion of public business, formation of tentative policy, vote, or taking of other action at the workshop. Op. Att'y Gen. No. 04027 (October 20, 2004).

PUBLIC MEETINGS BY VIDEOCONFERENCING AND TELEPHONE CONFERENCE CALL

D. Section 84-1411 allows certain public bodies to meet by videoconferencing and by telephone conference call.

1. Videoconferencing. Section 84-1411 was first amended by LB 635 in 1993 to allow meetings of certain public bodies by means of videoconferencing. Under the current amended § 84-1411(2), public bodies which are allowed to meet by videoconferencing include: (1) various bodies of state government including state agencies, boards, commissions, councils and committees, together with their advisory committees; (2) organizations created under the Interlocal Cooperation Act, the Joint Public Agency Act or the Municipal Cooperative Financing Act; (3) the governing body of a public power district with a chartered territory of more than one county in this state; (4) the governing body of a public power and irrigation district with a chartered territory of more than one county in this state; (5) boards of educational service units; (6) the Educational Service Unit Coordinating Council; (7) the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act; and (8) a community college board of governors.

a. The public bodies listed above may hold meetings by videoconferencing if the following requirements are met: (1) reasonable advance publicized notice is given, (2) reasonable arrangements are made to accommodate the public's right to attend, hear and speak at the meeting, including seating, recording by audio and visual recording devices, and an reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided absent videoconferencing, (3) at least one copy of all documents being considered is available to the public at each site of the videoconference, (4) at least one member of the public body is present at each site of the videoconference, and (5) no more than one-half of the public body's meetings in a calendar year are held by videoconferencing.

b. Under an amended § 84-1409(3), videoconferencing is defined as "conducting a meeting involving participants at two or more locations through the use of audio-video equipment which allows participants at each location to hear and see each meeting participant at each other location, including public input. Interaction between meeting participants shall be possible at all meeting locations."
c. Under § 84-1411(6), a public body may allow a member of the public or any other
witness other than a member of the public body to appear before the public body by
means of video or telecommunications equipment.

d. 1999 Neb. Laws LB 87, § 100 added organizations created under the Joint Public
Agency Act to the list of entities permitted to conduct meetings by
videoconferencing. 2009 Neb. Laws LB 361 added the boards of educational service
units to the list. 2012 LB 735 added power and irrigation districts and community college
boards of governors to the list. 2013 Neb. Laws LB 510 added the Educational Service
Unit Coordinating Council to the list.

2. Telephone Conference Call. Section 84-1411 was also amended by a number of legislative bills
Laws LB 361; 2012 Neb. Laws LB 735; 2013 Neb. Laws LB 510) to allow (a) the governing body of
an entity formed under the Interlocal Cooperation Act, the Joint Public Agency Act or the Municipal
Cooperative Financing Act, (b) the board of an educational service unit, (c) the governing body of a
risk management pool or its advisory committees organized in accordance with the
Intergovernmental Risk Management Act, (d) a community college board of governors, (e) the
governing body of public power district, (f) the governing body of a public power and irrigation
district, and (g) the Educational Service Unit Coordinating Council to meet by telephone conference
call. Those various bodies may only meet by telephone conference call if: (1) the territory
represented by the body covers more than one county, (2) reasonable advance publicized notice is
given which identifies each telephone conference location at which a board member or member of
the body’s governing body will be present, (3) all telephone conference meeting sites identified in
the notice are located within public buildings used by members of the body or at a place which will
accommodate the anticipated audience, (4) reasonable arrangements are made to accommodate
the public’s right to attend, hear, and speak at the meeting, including seating, recordation by audio
recording devices, and a reasonable opportunity for input such as public comment or questions to
at least the same extent as would be provided if a telephone conference call was not used, (5) at
least one copy of all documents being considered is available to the public at each site of the
telephone conference call, (6) at least one member of the governing organization of the body is
present at each site of the telephone conference call identified in the public notice, (7) the
telephone conference call lasts no more than two hours and (8) no more than one-half of the body’s
meetings in a calendar year are held by telephone conference call, except that a governing body of
a risk management pool that meets at least quarterly and the advisory committees of the governing
body may each hold more than one-half of its meetings by telephone conference call if the
governing body’s quarterly meetings are not held by telephone conference call or
videoconferencing. Nothing in this section dealing with telephone conference calls prevents the
participation in the call by consultants, members of the press, and other nonmembers of the
governing body at sites not identified in the public notice. These telephone conference calls may
not be used to circumvent any of the public government purposes established in the Open
Meetings Act.

a. 1999 Neb. Laws LB 47, § 2 also amended § 84-1411(2) to provide that certain meetings
of the Judicial Resources Commission may be held by telephone conference if the criteria
for videoconferencing listed above are met.
3. Circumvention of Open Meetings Act. Under § 84-1411, videoconferencing, telephone conferencing or conferencing by other electronic communication may not be used to circumvent any of the public government purposes established by the Open Meetings Act. Neither may emails, faxes, or other electronic communications be used for such purposes.

PUBLIC MEETINGS; NOTICE REQUIRED AND AGENDA

E. Section 84-1411 sets out several requirements for the notice which must be given for a public meeting and for the agenda which must be prepared: (1) the public body must give reasonable advance publicized notice of the time and place of each meeting by a method designated by the body and recorded in its minutes, (2) that notice must be transmitted to all members of the body and to the public, (3) the notice must contain an agenda of subjects known at the time of the publicized notice, or a statement that such an agenda, which must be kept continually current, is readily available for inspection at the principal office of the public body during normal business hours.

1. Agenda. Under § 84-1411(1), an agenda maintained at the office of a public body for public inspection must be kept continually current and may not be altered later than 24 hours before the scheduled commencement of the public meeting (or 48 hours before commencement of a meeting of a city council if that meeting is noticed outside the corporate limits of the municipality). A public body may modify an agenda to include items of an emergency nature only at such public meeting.

2. Specificity of the Agenda. LB 898 from 2006 added language to § 84-1411 (1) which states that agenda items shall be “sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting.” That statutory change arose out of a sense that lack of specificity in meeting agendas was a major issue of concern around the state. Government, Military and Veterans Affairs Committee Hearing on LB 898, 99th Nebraska Legislature, Second Session (2006) at 19. The intent of the change was to require public bodies to include sufficient detail in their agendas regarding issues to be discussed or acted upon so as to provide information and notice to the public. Floor Debate on LB 898, 99th Nebraska Legislature, Second Session, March 28, 2006 at 11701 (Statement of Senator Preister). The change was also intended to require sufficient detail in an agenda so that members of the public are not forced to look at past agendas in order to understand the issue to be discussed and/or the action to be taken. Id.

3. News Media. Section 84-1411(4) requires that the secretary or other designee of each public body shall maintain a list of news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to that list of media of the time and place of each meeting and the subjects to be discussed at that meeting.

4. History. The provision of § 84-1411 which prohibits altering an agenda within 24 hours of a meeting was added in 1983 to prevent addition of last minute matters to an agenda which did not really represent emergencies. Floor Debate on LB 43, 88th Nebraska Legislature, First Session, March 22, 1983, at 1896.

5. In Rauert v. School District I-R of Hall County, 251 Neb. 135, 555 N.W.2d 763 (1996), the court stated that the Open Meetings Act requires public bodies to give reasonable advance publicized notice of the time and place of their meetings, in part so that the public may attend and speak at those meetings.

6. The Legislature has imposed only two conditions on public bodies regarding the method of notification for their meetings: 1. the public body must give reasonable advance publicized notice of the time and place of each meeting, and 2. the method of notification must be recorded in the public body’s minutes. City of Elkhorn v. City of Omaha, 272 Neb. 867, 725 N.W.2d 792 (2007). There is no minimum time period for public notification of a special meeting, and an agenda for a public meeting can be created (not altered) later than 24 hours before the scheduled meeting. Id. In the City of Elkhorn case, the court held that notice of a meeting of the Omaha City
Council posted and placed on the city's website at 10:15 a.m. for a meeting at 10:00 p.m. the same day was sufficient under the facts of the case where the local newspaper printed an article about the meeting in its afternoon edition and four television broadcasters were present at the meeting. The court also indicated that any defect in notice intended for the benefit of council members would not invalidate a council meeting when all of the members of the council attended without objection. 7. The purpose of the agenda requirement is to give some notice of the matters to be considered at the meeting so that persons who are interested will know which matters are under consideration. Schauer v. Grooms, 280 Neb. 426, 786 N.W.2d 909 (2010); Pokorny v. City of Schuyler, 202 Neb. 334, 275 N.W.2d 281 (1979); State ex rel. Newman v. Columbus Township Board, 15 Neb. App. 656, 735 N.W.2d 399 (Neb. Ct. App. 2007). In Pokorny, the agenda at issue, considered with all the previous records of the city council involved, was sufficient to satisfy the open meetings statutes. Pokorny also indicates that posting notice at 10 p.m. on March 15 before a meeting at 10:30 a.m. on March 16 does not constitute reasonable notice. Posting notice one week ahead does.

8. In Hansmeyer v. Nebraska Public Power District, 6 Neb. App. 889, 578 N.W.2d 476 (1998), aff'd, 256 Neb. 1, 588 N.W.2d 589 (1999), the Court of Appeals considered whether an agenda item which simply stated "Work Order Reports" was sufficient to give adequate public notice of a decision to approve a work order which involved expenditure of over $47 million for the construction of a 96-mile power transmission line across privately held property to connect two power substations. The Court held that the agenda item was insufficient under the Open Meetings Act. The court also seemed to suggest, based upon the Pokorny case, that the sufficiency of an agenda item might be measured, at least to some degree, in the context of the other meetings of the public body immediately prior to the public meeting in question.


10. If a public body uses or publishes its agenda to give the required notice for a particular meeting, then the notice contained in the agenda must comport with the law for giving notice of what is to be considered at the meeting. Hansmeyer v. Nebraska Public Power District, 6 Neb. App. 889, 578 N.W.2d 476 (1998), aff'd, 256 Neb. 1, 588 N.W.2d 589 (1999).


12. When governmental subdivisions which hold annual meetings, such as townships, conduct their annual meeting, electors who participate in the annual meeting must place matters which they wish to discuss on the agenda for the annual meeting. State ex rel. Newman v. Columbus Township Board, 15 Neb. App. 656, 735 N.W.2d 399 (Neb. Ct. App. 2007). Electors under those circumstances may not simply appear at the annual meeting and bring up any subject falling within the broad powers of electors if that subject is not on the agenda. Id.

13. Two separate public bodies may publish notice of their meetings on the same sheet of paper and need not use separate sheets when the notices contain only the time and place of their meetings, and when the notices direct interested citizens to the place where agendas for each body may be found. Wolf v. Grubb, 17 Neb. App. 292, 759 N.W.2d 499 (Neb. Ct. App. 2009). In addition, two separate public bodies may combine their agendas when the combined agendas make it clear which items are to be addressed by each body. Id. The same rule applies to combined minutes. Id. The Wolf case involved a situation where a county board met both as a county board and as a county board of equalization.


16. Section 84-1411(1) requires public bodies to give notice of their meetings “by a method designated by each public body and recorded in its minutes.” In *Schauer v. Grooms*, 280 Neb. 426, 786 N.W.2d 909 (2010), the Nebraska Supreme Court seemed to indicate that this requirement may be met by a public body if it is possible, through the minutes of past meetings, to discern a customary and consistent method used by the public body to notify the public of its meetings. It does not appear that the choice of method for giving notice of meetings must be formally set forth in the minutes of the public body as such.


18. The Attorney General has also determined that: (1) an agenda may not be used as the minutes of a meeting, (2) reasonable notice under the statute means notice reasonably calculated to give appropriate notice to citizens of the time and place of a meeting and notice which complies with the formal requirements of the statute. 1975-76 Rep. Atty Gen. 150 (Opinion No. 116, dated August 29, 1975).

19. In Op. Atty Gen. No. 96071 (October 28, 1996), the Attorney General indicated that the Quality Jobs Board should give its normal 10-day published notice of meeting rather than an “informal” notice where the Board had recessed a previous meeting on a tax credit application pending a renewed meeting call from the Governor after issuance of an opinion from the Attorney General.

**EMERGENCY MEETINGS**

F. Section 84-1411(5) allows public bodies to hold emergency meetings without reasonable advance public notice. There are several statutory requirements with respect to such emergency meetings: (1) the nature of the emergency shall be stated in the minutes, and any formal action taken shall pertain only to the emergency, (2) the provisions of § 84-1411(4) dealing with notice to the media shall be complied with in connection with an emergency meeting, (3) complete minutes of the emergency meeting specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public no later than the end of the next regular business day.

1. Under § 84-1411(5), emergency meetings may be held by electronic or telecommunications equipment.

2. In *Steenblock v. Elkhorn Township Board*, 245 Neb. 722, 515 N.W.2d 128 (1994), the Court indicated, in a case involving allegations of a violation of the open meetings statutes, that an emergency is defined as “any event or occasional combination of circumstances which calls for immediate action or remedy; pressing necessity; exigency; a sudden or unexpected happening; an unforeseen occurrence or condition.” In that case, the Court held that a township board meeting to consider the job status of a township employee, convened as an emergency meeting because of a
snowstorm, was not a proper emergency meeting because the employee was given two week's notice of his resultant termination, and because the reasons given for the employee's termination were based upon his past performance.

3. In *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (Neb. Ct. App. 2009) the Court of Appeals considered whether a number of items taken up at meetings of a county board without any listing on the board's agenda were "emergency" items. In making that determination in each case, the court focused upon whether there was anything in the record which indicated that a particular item required immediate action or involved pressing necessity.

4. The Attorney General has also stated that an item of an emergency nature is one that requires immediate resolution by the public body, and one which has arisen in circumstances impossible to anticipate at a time sufficient to place on the agenda of a regular, called, or special meeting of the body. 1975-76 Rep. Att'y Gen. 150 (Opinion No. 116, dated August 29, 1975).

5. In Op. Att'y Gen. No. 95063 (August 9, 1995), the Attorney General indicated that action taken during a meeting of the Nebraska Equal Opportunity Commission by a telephone conference call which did not comply with the requirements of the open meetings statutes for emergency meetings was void.

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**PUBLIC MEETINGS; MINUTES AND VOTING PROCEDURES**

G. Section 84-1413 contains several provisions regarding the minutes which are to be maintained by public bodies and regarding voting procedures for public bodies.

1. **Minutes.** Every public body shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed. The minutes of all meetings and evidence or documentation received or disclosed during open session shall be public records, open to public inspection during normal business hours. Minutes shall be written and available for inspection within 10 working days or prior to the next convened meeting, whichever occurs earlier, except that cities of the second class and villages may have an additional 10 working days if the employee responsible for writing the minutes is absent due to a serious illness or emergency.

2. **Voting procedures.** Any action taken on any question or motion duly made and seconded shall be by roll call vote of the public body in open session, and the record shall state how each member voted or if the member was absent or not voting. The vote to elect leadership within a public body may be by secret ballot, but the total number of votes for each candidate shall be recorded in the minutes.

   a. **Electronic Voting Devices.** The roll call or viva voce vote requirements of the Open Meetings Act may be satisfied by a municipality, a county, a learning community, a joint entity created pursuant to the Interlocal Cooperation Act, a joint public agency created pursuant to the Joint Public Agency Act or an agency formed under the Municipal Cooperative Financing Act which uses an electronic voting device which allows the vote of each member of the governing body to be readily seen. The governing bodies permitted to use electronic voting devices was broadened by 2009 Neb. Laws. LB 361.

3. In *State ex rel. Schuler v. Dunbar*, 208 Neb. 69, 302 N.W.2d 674 (1984), the Supreme Court held that the requirement of § 84-1413(2) that the record shall state how each member of a body voted could not be satisfied by a nunc pro tunc amendment to the body's minutes showing that the recording of the vote in the minutes was performed prior to the time the actual recording in the minutes took place. However, when the same case was before the court a second time, the court
held that, as a general rule, a public body may, if no intervening rights of a third person have arisen, order the minutes of its own proceedings at a previous meeting to be corrected according to the facts to make them speak the truth. *State ex rel. Schuler v. Dunbar*, 214 Neb. 85, 333 N.W.2d 652 (1983).

4. Section 84-1413 is violated by a failure to make or take a vote in accordance with the statute rather than a failure to record a properly taken vote. *State ex rel. Schuler v. Dunbar* (1983), *supra*.

5. Section 84-1413(2) dealing with roll call votes does not require the record to state that the vote was by roll call but only requires that the record show if and how each member voted. Neither does that statute set a time limit for recording the results of a vote. *State ex rel. Schuler v. Dunbar* (1983), *supra*.

6. The statutory requirements here dealing with voting and minutes are mandatory since the Legislature provided that action taken in violation of this statute is void. *State ex rel. Schuler v. Dunbar* (1981), *supra*.

7. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (Neb. Ct. App. 2009) seems to indicate that the Open Meetings Act does not require that minutes of meetings be “published,” but only that they be written and available for inspection within 10 working days or prior to the next convened meeting of the public body.

8. The legislative history of the original open meetings statutes, LB 325 from 1975, indicates that the requirement of a roll call vote was directed at votes on questions that would bind the particular public body. Other procedural questions were not covered. Government Committee Hearing on LB 325, 84th Nebraska Legislature, First Session (1975) at 10.


10. In Op. Att'y Gen. No. 98045 (November 4, 1998), the Attorney General indicated that detailed minutes of all matters discussed need not be maintained when a public body is meeting in closed or executive session, so long as the requirements of § 84-1410 pertaining specifically to the minute entries necessary for a closed session are met.

**PUBLIC MEETINGS; RIGHTS OF THE PUBLIC ATTENDING**

**I.** Section 84-1412 establishes the rights of members of the public attending a meeting of a public body.

1. Members of the public have the right to attend and the right to speak at meetings of public bodies, and all or any part of a public meeting except closed sessions under § 84-1410, may be videotaped, recorded, televised, broadcast, photographed, etc. by any person.

2. Public bodies may make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, or recording their meetings. A public body is not required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings.

3. Members of the public cannot be required to identify themselves as a condition for admission to a public meeting. The public body may require persons desiring to address the body to identify themselves.
4. No public body shall, to circumvent the open meetings laws, hold its meeting in a place known to be too small to accommodate the anticipated audience. However, a public body shall not be in violation of this prohibition if it meets in its traditional meeting place in this state.

5. LB 898 from 2006 added language to § 84-1412 which provides that public bodies shall make available at least one current copy of the Open Meetings Act posted in the meeting room at a location accessible to members of the public. At the beginning of any meeting, the public shall be informed about the location of the posted information. The legislative history of LB 898 indicates that “posting” a copy of the Open Meetings Act means putting it up in some fashion, including attaching it to a bulletin board, hanging it by a chain or fastening it to a wall. Floor Debate on LB 898, 99th Nebraska Legislature, Second Session, March 28, 2006, at 11697 (Statement of Senator Preister). “Posting” does not include placing the Act on a table as a loose document which can be removed and therefore might not be available throughout the meeting. Id. If a meeting of a public body is moved to another location to accommodate a larger audience, then the posted copy of the act should be moved and posted in the new location. Id.

6. In 2008, LB 962 amended § 84-1412 to provide that public bodies may not require that “the name of any member of the public be placed on the agenda prior to . . . [a] meeting in order to speak about items on the agenda.” That change was made so that members of the public are not required to place themselves on the agenda of a public body prior to a meeting in order to speak on agenda items during the times at that meeting set aside for public comment. Floor Debate on LB 962, 100th Nebraska Legislature, Second Session, February 28, 2008 at 2 (Statement of Senator Preister). That change in statutory language was not intended to affect the right of a public body to make reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, or recording its meetings. Id.

7. A public body may hold a meeting outside the State of Nebraska only if all the following conditions are met: a. a member entity of the public body is located outside of the state and the meeting is in that member’s jurisdiction, b. all out-of-state locations identified in the notice of meeting are located within public buildings used by members of the entity or at a place which will accommodate the anticipated audience, c. reasonable arrangements are made to accommodate the public’s rights to attend, hear and speak at the meeting, including making a telephone conference call available at an instate location to members, the public, or the press, if requested twenty-four hours in advance, d. no more than 25% of the public body’s meetings in a calendar year are held out-of-state, e. out-of-state meetings are not used to circumvent any of the public government purposes established by the Open Meetings Act. f. reasonable arrangements are made to provide viewing at other instate locations for a videoconference meeting if requested fourteen days in advance and if economically and reasonably available in the area, and g. the public body publishes notice of the out-of-state meeting at least 21 days before the date of the meeting in a legal newspaper of statewide circulation. These requirements for out-of-state meetings were added to § 84-1412 by 2001 Neb. Laws. LB 250, § 2.

8. A public body shall, upon request, make a reasonable effort to accommodate the public’s right to hear discussion and testimony at a public meeting. Public bodies shall make at least one copy of reproducible written material discussed at an open meeting available at the meeting or at the instate location for a telephone conference call or video conference for examination and copying by members of the public.
9. **History.** Many of the initial provisions in § 84-1412 dealing with the rights of the public were added as a result of LB 43 in 1983.

10. The language requiring a reasonable effort to allow all parties to hear a public meeting does not involve an absolute requirement that all persons present shall be able to hear. *Floor Debate on LB 43, 88th Nebraska Legislature, First Session, March 21, 1983,* at 1794-1795.

## CLOSED SESSIONS OF A PUBLIC BODY

I. Section 84-1410, pertaining to closed sessions of public body, has generated the most controversy of all the portions of the open meetings statutes. Section 84-1410(1) provides that any public body may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary (1) for the protection of the public interest, or (2) for the prevention of needless injury to an individual, if such individual has not requested a public meeting. Closed meetings may not be held for discussion of the appointment or election of a new member to any public body. Nothing in § 84-1410 should be construed to require that any meeting be closed to the public.

1. Under § 84-1410(1), examples of reasons for a closed session include:

   a. Strategy sessions with respect to collective bargaining, real estate purchases, pending litigation, or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body.

   b. Discussion regarding deployment of security personnel or devices.

   c. Investigative proceedings regarding allegations of criminal misconduct.

   d. Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if such person has not requested a public meeting.

   e. For a Community Trust created under Neb. Rev. Stat. § 81-1801.02, discussion regarding the amounts to be paid to individuals who have suffered from a tragedy of violence or natural disaster. [Amended into § 84-1410(1) by 2011 Neb. Laws LB 390.]

   f. For public hospitals, governing board peer review activities, professional review activities, review and discussion of medical staff investigations or disciplinary actions, and any strategy session concerning transactional negotiations with any referral source that is required by federal law to be conducted at arms length. [Amended into § 84-1410(1) by 2012 Neb. Laws LB 995.]

These examples are not exclusive; they are merely examples, and other reasons may exist. *Government Committee Hearing on LB 325, 84th Nebraska Legislature, First Session (1975)* at page 3; 1975-76 Rep. Att'y Gen. 150 (Opinion No. 116, dated August 29, 1975); Op. Att'y Gen. No. 65 (April 17, 1985).

2. LB 898 from 2006 amended some of the provisions of § 84-1410 pertaining to the mechanics of holding a closed session. The subject matter of the closed session and reason necessitating the closed session shall be identified in the motion to hold a closed session. The vote to hold a closed session must be taken in open session, and the entire closed session motion, the vote of each member on the question of holding a closed session, and the time when the closed session commences and ends must be recorded in the minutes. If the motion to close passes, then the
presiding officer shall restate on the record immediately prior to the closed session the limitation of the subject matter of the closed session. The public body holding a closed session shall restrict its consideration of matters during the closed session to only those purposes set forth in the motion to close as the reason for the closed session. The meeting must be reconvened in open session before any formal action may be taken, and “formal action” in that context is defined in § 84-1410(2) to mean a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order, or ordinance or formation of a position or policy. Under an amendment to § 84-1410(2) effected by LB 621 in 1994, formal action by the body in that context does not include, “negotiating guidance given by members of the public body to legal counsel or other negotiators in a closed [strategy] session authorized for collective bargaining, real estate purchases, etc.] under subdivision 1(a) of [Section 84-1410].”

3. Any member of the public body can challenge the continuation of a closed session if he or she determines that the session has exceeded the original reason for the closed session, or if he or she contends that the closed session is neither clearly necessary for the protection of the public interest or the prevention of needless injury to the reputation of an individual. Such a challenge can only be overruled by a majority vote of the members of the public body. Such challenge and its disposition shall be recorded in the minutes.

4. **History.** One of the purposes for the initial open meetings statute, LB 325 from 1975, was to tighten restrictions on closed or executive sessions of public bodies. **Introduction of Purpose for LB 325, 84th Nebraska Legislature, First Session (1975).** The fourth example of reasons for closed meetings was added by LB 43 in 1983. The provisions dealing with pending or imminent litigation and defining formal action in a closed session were added as a part of LB 1019 in 1992.

5. It is not entirely clear what vote of the public body is necessary to go into closed session. The statute states that “an affirmative vote of a majority of [the body's] voting members” is necessary for a closed session. On its face, the normal meaning of this language would presumably be a majority of those members present and voting. This is particularly true since the later subsection (3) of § 84-1410 requires a “majority vote of the members of the public body” to overrule a challenge to the continuation of the closed session. However, the legislative history of LB 325 makes it quite clear that the legislators intended to make the requirement for a closed session a vote of the majority of the body rather than a vote of the majority of those present and voting. **Floor Debate on LB 325, 84th Nebraska Legislature, First Session, May 14 and May 20, 1975, at 4616, 5015.** Moreover, there is some indication that “voting” members in § 84-1410(1) refers to particular members of bodies such as the Board of Regents which has both voting and non-voting members. **Government Committee Hearing on LB 325, 84th Nebraska Legislature, First Session (1975) at 27-28.** The safer approach is to authorize a closed session of the public body by a majority vote of the members of the body rather than by a majority vote of just those members present.

6. The landmark case for what is permissible in a closed session is Grein v. Board of Education of the School District of Fremont, 216 Neb. 158, 343 N.W.2d 718 (1984). Grein involved a closed session by a school board for discussion of the low bid on a construction project. The supreme court held that the closed session was improper. That case indicates:

a. Provisions of the statute permitting closed sessions must be narrowly and strictly construed. **See also State ex rel. Upper Republican Natural Resources District v. District Judges of the District Court for Chase County, 273 Neb. 148, 728 N.W.2d 275 (2007).**
b. The public interest which is protected in § 84-1410(1) is "that shared by citizens in general and by the community at large concerning pecuniary or legal rights and liabilities." 216 Neb. at 165, 343 N.W.2d at 723. See also Wasikowski v. The Nebraska Quality Jobs Board, 264 Neb. 403, 648 N.W.2d 756 (2002).

c. Good faith motivation for a closed session is not a cure for non-compliance with the public meetings laws.

d. The prohibition against decisions or formal actions in a closed session proscribes crystallization of a secret decision and then ceremonial acceptance in open session.

e. There is a guiding principle with respect to closed sessions: "If a public body is uncertain about the type of session to be conducted, open or closed, bear in mind the policy of openness promoted by the Public Meetings Laws and opt for a meeting in the presence of the public." 216 Neb. at 168, 343 N.W.2d at 724.

7. Pokorny v. City of Schuyler, supra, indicates that there is nothing in the open meetings statutes which requires that negotiations for the purchase of land be conducted in open meeting, but deliberations of a public body as to whether an offer to purchase should be made must be done in an open meeting.

8. In a case involving the revocation of a land surveyor's license, the supreme court held that a closed session was improper since there was no showing of either necessity or of the reasons set out in § 84-1410(1). Simonds v. Board of Examiners of Land Surveyors, 213 Neb. 259, 329 N.W.2d 92 (1983).

9. Neb. Rev. Stat. § 79-832 (1996), dealing with hearings involving cancellation, amendment or termination of a teacher's contract mandates a closed hearing upon an affirmative vote of a majority of the school board's members present and voting and upon specific request of the certificated employee or the certificated employee's representative. However, under that section, formal action by the school board requires that the school board reconvene in open session. Stephens v. Board of Education of School District No. 5, Pierce County, 230 Neb. 38, 429 N.W.2d 722 (1988).

10. The provisions of the open meetings statutes dealing with closed sessions, in part, reflect the Legislature's judgment of the appropriate balance between the public's interest in open discussion of governmental issues and the rights of individuals, such as state employees, to have their performance as employees considered in private if they so choose. Meyer v. Board of Regents of the University of Nebraska, 1 Neb. App. 893, 510 N.W.2d 450 (Neb. Ct. App. 1993).

11. If the primary purpose for a closed session of a public body is authorized under the open meetings statutes, then any necessary discussion of incidental matters is also authorized. Meyer v. Board of Regents of the University of Nebraska, 1 Neb. App. 893, 510 N.W.2d 450 (Neb. Ct. App. 1993). In the Meyer case, the Nebraska Court of Appeals indicated that the University Board of Regents could properly discuss the appointment of an interim president for the University during a closed session called to evaluate and consider the employment status of the president.

12. In Wasikowski v. The Nebraska Quality Jobs Board, 264 Neb. 403, 648 N.W.2d 756 (2002), the court held that if a person who is present at a meeting of a public body observes an alleged violation of the Open Meetings Act in the form of an improper closed session and fails to object, then that person waives his or her right to object to the closed session at a later date. However, that case appears to be legislatively overruled by LB 898 from 2006 which provides that it shall not be a defense to a citizen lawsuit under § 84-1414(3) that the citizen attended the meeting and failed to object at that time.
13. There is no absolute evidentiary privilege which applies to all communications made during a closed session of a public body, and communications made during such closed sessions are discoverable. State ex rel. Upper Republican Natural Resources District v. District Judges of the District Court for Chase County, 273 Neb. 148, 728 N.W.2d 275 (2007). However, to the extent that communications made during a closed session implicate other recognized privileges such as the attorney/client privilege, those communications are protected. Id.

14. The statutory provision allowing public bodies to hold closed sessions for strategy sessions regarding litigation or threatened litigation by necessity encompasses discussions and decisions regarding whether to make or reject a settlement offer. Such decisions regarding litigation strategy should not have to be discussed publicly, during an open session, in front of the body's opponent. Becker v. Allen, 1996 WL 106217, 1996 Neb. App. LEXIS 73 (Neb. Ct. App. 1996) (Not approved for publication). In addition, the strategic meetings which a public body has with its attorney when threatened with or engaged in litigation, in which the public body may give direction to its attorney, are protected by the attorney-client privilege. Id.

15. Opinions of the Attorney General:


b. Discussions of legal matters between a county board and a county attorney involving pending litigation or legal consequences of specific action are suitable for a closed session. 1975-76 Rep. Att'y Gen. 150 (Opinion No. 116, dated August 29, 1975).

c. A public body can go into a proper closed session for discussion of personnel matters and then reconvene for a public vote with no lengthy explanation of the rationale underlying the decision. Op. Att'y Gen. No. 89063 (October 12, 1989).

d. The closed session exception for prevention of needless injury to reputation is for the protection of individual employees and not for the protection of governmental officers on the public body. Id.

e. In Op. Att'y Gen. No. 98045 (November 4, 1998), the Attorney General indicated that detailed minutes of all matters discussed need not be maintained when a public body is meeting in closed or executive session, so long as the requirements of § 84-1410 pertaining specifically to the minute entries necessary for a closed session are met.

f. A county clerk, county attorney and county treasurer acting as a group under § 32-567(3) to make an appointment to fill a vacancy on a county board may not go into closed session for evaluation of the merits of the candidates based upon the express language of § 84-1410(1). Op. Att'y Gen. No. 97050 (September 18, 1997).

g. The Attorney General has indicated informally that developing testimony for an upcoming Legislative hearing is not a proper reason for a state agency to go into closed session. On the other hand, the Attorney General has also indicated informally that discussion of “sensitive medical and financial information” pertaining to specific individuals...
who applied for admission to a state home could be conducted in a closed session so long as the actual vote on admission was done in an open meeting.

**CIRCUMVENTION OF THE OPEN MEETINGS ACT**

J. Section 84-1410(4) prohibits a person or a public body from circumventing the purpose of the open meetings statutes by failing to invite a portion of its members to a meeting or by designating itself as a subcommittee of the whole body. That section also prohibits the use of any closed session, informal meeting, chance meeting, social gathering, email, fax or other electronic communication for the purpose of circumventing the requirements of the open meetings statutes.

1. This provision was added to the open meetings statutes by LB 43 in 1983. This section was directed at the intentional circumvention of the open meetings statutes rather than inadvertent acts. Government, Military and Veterans' Affairs Committee Hearing on LB 43, 88th Nebraska Legislature, First Session (1983) at 5.

2. 2004 Neb. Laws LB 1179 added emails, faxes and other electronic communications to the list of mediums which could not be used to circumvent the requirements of the Open Meetings Act.

3. Similar language prohibiting the use of telephone conference calls, emails, faxes, or other electronic communications to circumvent any of the public government purposes of the Open Meetings Act is contained in § 84-1411(3).

4. The Attorney General has indicated that intent is a necessary element of the conduct prohibited by § 84-1410(4), and that members of a public body can communicate with other members of that body by electronic means, even if that communication is directed to a quorum of the body, so long as there is no course of communication which becomes sufficiently involved so as to evidence an intent or purpose to circumvent the Open Meetings Act. Op. Att’y Gen. No. 04007 (March 8, 2004).

**ACTIONS FOR ENFORCEMENT**

K. Section 84-1414 sets out various enforcement options available to individuals who believe that the open meetings statutes have been violated.

1. Any motion, resolution, rule, ordinance, or formal action of a public body made or taken in violation of the public meetings statutes shall be declared void by the district court if the suit is commenced within 120 days of the meeting of the public body at which the alleged violation occurred. Any such motion or other action taken in substantial violation of the public meeting statutes shall be voidable by the district court if the suit is commenced after more than 120 days but within one year of the meeting of the public body in which the alleged violation occurred. A suit to void any final action shall be commenced within one year of the action.

2. Under § 84-1414(3), any citizen of this state may commence a suit in the district court of the county in which the public body ordinarily meets or in which the plaintiff resides for the purpose of requiring compliance with or preventing violations of the open meetings statutes, for the purpose of declaring an action of a public body void, or for the purpose of determining the applicability of the open meetings statutes to discussions or decisions of the public body. *City of Elkhorn v. City of Omaha*, 272 Neb. 867, 725 N.W.2d 792 (2007). The court may order payment of reasonable attorney's fees and court costs to a successful plaintiff in a suit brought under § 84-1414(3). Under
LB 898 from 2006, it shall not be a defense to such a suit that the citizen attended the meeting and failed to object to violations at such time.

3. The Attorney General and the county attorney of the county in which the public body ordinarily meets shall enforce the provisions of the open meetings statutes.

4. History. The original version of § 84-1414(1), which was a part of LB 325 passed in 1975, simply provided that actions taken in violation of the public meetings statutes should be void. The void/voidable distinction was added by LB 43 in 1983. The apparent intent of that later language was to allow a court to void an action by a public body taken when there was any violation of the open meetings statutes if the action was filed within four months of the meeting in question. After four months, the violation of the open meetings statutes would have to be substantial to allow a court to void the action of the public body. In any event, no action could be brought after one year of the public meeting in question. Floor Debate on LB 43, 88th Nebraska Legislature, First Session, March 22, 1983, at 1892.

5. The legislative history of LB 325 from 1975 indicates that the initial intent of that statute was to have the county attorney responsible for enforcement proceedings involving public bodies at a local level. The Attorney General would be responsible for enforcement against state entities. Floor Debate on LB 325, 84th Nebraska Legislature, First Session, May 14, 1975, at 4620.

6. The Nebraska Supreme Court has indicated that action by a public body which is proper under the open meetings statutes may cure defects in actions previously taken by the same public body. In such an instance, an action by a public body which previously might have been declared void will be declared proper. Pokorny v. City of Schuyler, supra. On the other hand, under those circumstances, the original improper meeting itself is still void. Steenblock v. Elkhorn Township Board, 245 Neb. 722, 515 N.W.2d 128 (1994). Pokorny also indicates that the effect of an invalid public meeting under the open meetings laws is the same as if the meeting had never occurred.


8. Reading of a city ordinance in accordance with a city charter constitutes “formal action” of a city council which may be voided in a lawsuit under § 84-1414(1). City of Elkhorn v. City of Omaha, 272 Neb. 867, 725 N.W.2d 792 (2007).

9. A number of Nebraska cases deal with waiver of rights under the Open Meetings Act by a failure to make a timely objection to violations of the Act. Stoetzl & Sons, Inc. v. City of Hastings, 265 Neb. 637, 658 N.W.2d 636 (2003) (if a person who attends a meeting of a public body believes that copies of documents discussed by the body should be made available to the public at the meeting, a timely objection should be made, or that person waives his or her right to object); Wasikowski v. The Nebraska Quality Jobs Board, 264 Neb. 403, 648 N.W.2d 756 (2002); Otey v. State, 240 Neb. 813, 485 N.W.2d 153 (1992); Witt v. School District No. 70, Frontier County, 202 Neb. 63, 273 N.W.2d 669 (1979) (any person who has notice of a meeting and attends the meeting is required to object specifically to a lack of public notice at the meeting or waive his rights to object on that ground under the open meetings statutes); Hauser v. Nebraska Police Standards Advisory Council, 264 Neb. 944, 653 N.W.2d 240 (2002) (if a person present at a meeting observes and fails to object to an alleged open meetings violation in the form of a failure to conduct roll call votes before taking action on questions or motions pending, that person waives his or her right to object at a later date); Alexander v. School District No. 17 of Thurston County, 197 Neb. 251, 248 N.W.2d 335 (1976) (where teachers had notice of a termination hearing, appeared, and no objection was made to a failure of the school board to give proper notice under the open meetings statutes, those teachers
waived any objection they might have had to violations of the open meetings law). Those cases appear to be legislatively overruled by LB 898 from 2006 which provides that it shall not be a defense to a citizen lawsuit under § 84-1414(3) that the citizen attended the meeting and failed to object at that time.

10. Actions for relief under the open meetings statutes are tried as equitable cases, given the fact that the relief sought is in the nature of a declaration that particular action taken in violation of the laws is void or voidable. Such cases are also considered as equitable cases on appeal. Stoetzel & Sons, Inc. v. City of Hastings, 265 Neb. 637, 658 N.W.2d 636 (2003); Hauser v. Nebraska Police Standards Advisory Council, 264 Neb. 944, 653 N.W.2d 240 (2002); Wolf v. Grubbs, 17 Neb. App. 292, 759 N.W.2d 499 (Nebr. Ct. App. 2009); Hansmeyer v. Nebraska Public Power District, 6 Neb. App. 889, 578 N.W.2d 476 (1998), aff'd, 256 Neb. 1, 588 N.W.2d 589 (1999).

11. The Hansmeyer case also discusses the distinction between "void" and "voidable" under § 84-1414. "Void" means ineffectual and having no legal force or binding effect, while "voidable" means that which may be avoided or declared void, not absolutely void. In Hansmeyer, the court considered factors such as whether any purpose would be served or whether decisions were made in secret without public discussion in determining whether a voidable vote by the Nebraska Public Power District should, in fact, be voided.

12. Once a meeting has been declared void pursuant to the Open Meetings Act, the members of the public body involved are prohibited from considering any information which they obtained at the illegal meeting. Wolf v. Grubbs, 17 Neb. App. 292, 759 N.W.2d 499 (Nebr. Ct. App. 2009); Alderman v. County of Antelope, 11 Neb. App. 412, 653 N.W.2d 1 (2002).

13. The decision to award attorneys fees to a "successful plaintiff" in an action under § 84-1414 is discretionary with the trial court. Hansmeyer v. Nebraska Public Power District, 6 Neb. App. 889, 578 N.W.2d 476 (1998), aff'd, 256 Neb. 1, 588 N.W.2d 589 (1999). The court in Hansmeyer also held that the plaintiffs in that case were "successful plaintiffs" who could recover attorney's fees under § 84-1414 because there was a finding that a substantial violation of the open meetings statutes had occurred, and because the public body involved amended its practices to prepare proper agendas after the plaintiffs filed their action. The court reached that conclusion even though it ultimately determined that the improper action of the public body at issue should not be voided. Wolf v. Grubbs, 17 Neb. App. 292, 759 N.W.2d 499 (Nebr. Ct. App. 2009) also contains a discussion regarding the basis for an award of attorneys fees in that case, including the court's analysis of why it reduced a fee award on appeal.

14. Voiding an entire meeting is a proper remedy for violations of the Open Meetings Act. Wolf v. Grubbs, 17 Neb. App. 292, 759 N.W.2d 499 (Nebr. Ct. App. 2009). The court in the Wolf case also specifically considered whether violations of the Open Meetings Act were "substantial" violations in determining whether it was appropriate to void actions of a county board when the enforcement lawsuit was filed more than 120 days after the meetings in question.

15. In Wolf v. Grubbs, 17 Neb. App. 292, 759 N.W.2d 499 (Nebr. Ct. App. 2009) there was no evidence in the record which established that a county board had published notice of its meetings anywhere. The Court of Appeals held that in the absence of contrary evidence, it may be presumed that public officers faithfully performed their official duties. Id. In addition, absent evidence showing misconduct or disregard for the law, the regularity of official acts is also presumed. Id. In Wolf, the court also indicated that the plaintiffs had the burden at all times to show that it was more probable that notices of meetings were not posted than probable that they were.

17. "Citizens," as well as members of the general public and reporters or other representatives of the news media, are the intended beneficiaries of the Open Meetings Act, and have standing to bring an action under that Act. Schauer v. Grooms, 280 Neb. 426, 786 N.W. 2d 909 (2010). This is true even though individual citizens may not be able to allege a particularized injury as a result of action by a public body or the pecuniary interest in the public body's action which might be necessary for common law standing. Id. An action under § 84-1414 is permissible when the ultimate result of the questionable meetings of the public body is annexation. Id.

18. The plaintiffs in Pierce v. Drobny, 279 Neb. 251, 777 N.W. 2d 322 (2010), contended that a local school board held a number of secret meetings without notice or public participation to plan for a special election for the issuance of bonds for a new school. A resolution authorizing the special election was subsequently passed by the board at a public meeting, and at the special election, voters approved the school bond issue. The plaintiffs sought to void the board's resolution for the special election under the Open Meetings Act rather than filing an election contest. The Nebraska Supreme Court held that an election contest was the exclusive remedy under such circumstances, and that a separate challenge under the Open Meetings Act did not exist once the bond issue was voted upon by the public.

CRIMINAL SANCTIONS

L. Section 84-1414(4) provides that any member of a public body who knowingly violates or conspires to violate the Open Meetings Act, or who attends or remains at a meeting knowing that the public body is in violation of any provision of that Act, shall be guilty of a Class IV misdemeanor for a first offense, and a Class III misdemeanor for a second or subsequent offense.

1. The legislative history of LB 325 from 1975 indicates that the criminal sanctions included in this section were originally directed at intentional behavior rather than at inadvertence. Government Committee Hearing on LB 325, 84th Nebraska Legislature, First Session (1975) at 16.

2. The criminal sanctions for violation of the open meetings statutes were first increased as a result of LB 1019 passed in 1992. Also, that same bill in 1992 added language which made knowingly remaining at or attending a meeting in violation of the open meetings statutes a crime. The present language which applies criminal sanctions to those members of a public body who remain at a meeting knowing that the public body is in violation of the open meetings statutes was added by LB 621 in 1994.

3. Under Neb. Rev. Stat. § 28-106 (2008), a Class IV misdemeanor is punishable by a fine of $100 to $500 and no imprisonment. In addition, a Class III misdemeanor is punishable by up to 3 months imprisonment or up to a $500 fine, or both. A Class III misdemeanor has no minimum penalty.

Prepared by:

Jon Bruning, Attorney General

Dale A. Comer, Assistant Attorney General

2115 State Capitol

Lincoln, NE 68509
Call to Order:
The meeting was called to order at 8:35am by Dr. Bruce Kennedy. (Attendees appear above).

Approval of Agenda:
The agenda was reviewed. Linda Ament moved to accept the agenda, seconded by Janet Henning. Motion #1 carried.

Open Public Hearing:
Judy Henning moved to open the Public Hearing, seconded by Janet Henning. Motion #2 Carried.

Sonya updated the board that there were no changes to the 2015-2016 budget that was proposed at the July meeting. The grant from the office of highway safety has been received and we will be given money for Ebola.

Trudy Clark moved to close the public hearing, Linda Ament seconded. Motion #3 carried.

Janet Henning moved to accept the 2015-2016 budget, Linda Ament Seconded. Motion #4 carried.

Approval of Minutes:
Minutes were emailed before the meeting and distributed at the onset of the meeting. Dave Bruning moved to approve the July 16, 2015 minutes, seconded by Trudy Clark. Motion #5 carried.

Financial Report:
Financial reports through July 1015 were in the packets at the meeting. Health Families of America needed to get a large amount of money spent. They bought emergency supplies for families and other things that were in their grant. Dave Bruning asked about the insurance being paid twice in July. Sonya explained it was due to the timing of the billing cycle. She also reminded the board there were three pay periods in July. Judy Henning moved to accept the financial report, seconded by Janet Henning. Motion #6 carried.

Directors Report:
Jane has initiated two self-assessment surveys for the department staff. The first was sent to all PHS staff and rated management functions. The second is being sent out to all management staff and will assess how well the directors duties and functions are being performed. The website will be launched
in August. Becky Hansen, Nicole Reynolds and Daniela Ischiu have resigned and will be taking an exit survey. All staff completed a basic training program. Jane is looking for someone to help with the indirect cost rate which will help Sonya. Jane also mentioned that providing staff insurance benefits is very costly to the organization and PHS may need to look into not providing insurance anymore.

**Open Forum:**

Jane Ford Witthoff thanked everyone for coming.

**The next Board of Health Meeting is Thursday, September 17, 2015 at 8:30 a.m. in Crete, NE.**

Being no further business, Trudy Clark motioned to adjourn, seconded by Janet Henning. Motion #7carried. The meeting was declared adjourned.

Respectfully submitted by Nicole Reynolds
Meeting Facilitator: Jane Ford-Witthoff, Director

Invitees: Linda Arnet, Dave Bruning, Dennis Byars, Larry Cerny, Mark Schoenrock, Jeremy Christiansen, Dr. Jenna Cook, Janet Henning, Judy Henning, Bruce Kennedy, Trudy Clark, Paul Utemark

Call to Order

Roll Call

1. Agenda
2. Approval of minutes from last meeting (inserted)
3. Acceptance for Financial Reports (inserted)
4. AUDIT Report submitted by Auditors for acceptance
5. Director Report (insert)
6. Annual Report for release (insert)
7. Minority Health Report for action (insert)
8. Dental Report for action (insert)
9. Staff Strategic Plan for review (insert)
10. Appointment of Nominating Committee
11. Acceptance for Grants and Contracts
12. Pamphlet and Website for review (pamphlet inserted)
13. Open Forum
14. Next meeting Board to set

Meetings for FY 2016: Meetings are conducted in accord with the Open Meetings Act. Public Notice of the meeting is published within the Counties of Gage, Saline, Thayer, Jefferson and Fillmore. The Agenda is posed at least 10 days in advance at the Public Health Solutions District health Department Office where it is kept continually current. The Board may go into executive session at any time as permitted in the Open Meetings Act. Meeting Attendance is also available through the Nebraska Telehealth Network by calling the Department. The schedule and locations are posted on the on-line Telehealth schedule and in the Department Office.
Minutes of PHSDHD Board of Health Meeting

PUBLIC HEALTH SOLUTIONS
District Health Department

Board of Health

November 19, 2015

Board Members in Attendance:
Janet Henning     Bruce Kennedy   Jeremy Christiansen   Dave Bruning
Judy Henning     Jenna Cook       Mark Schoenrock      Larry Cerny

Board Members Present via Telephone:
Paul Utemark

Board Members Absent:
Dennis Byars   Linda Ament   Trudy Clark

Staff Members in Attendance:
Jane Ford Withhoff, Health Director; Sonya Williamson Fiscal Aide, Jenik Davis Administrative Assistant Carmen Chinchilla Dental Program Coordinator, Sarah Eason Performance & QI Manager

Call to Order:
The meeting was called to order at 8:40am by Larry Cerny. (Attendees appear above).

Approval of Agenda:
The agenda was reviewed. Janet Henning moved to accept the agenda, seconded by Judy Henning. Motion #1 carried.

Approval of Minutes:
Minutes were emailed before the meeting and distributed again at the onset of the meeting. Jeremy Christiansen moved to approve the August 20, 2015 minutes, seconded by Dave Bruning. Motion #2 carried.

Financial Report:
Sonya Williamson updated the BOH members on the status of the fiscal year. She explained that often have different fiscal years so they are on different suspense, so that is why some reports look off. Higher expenses are reported because of ordering vaccines for the upcoming seasons and programs.

Jane Ford added that variations in expenses might also be due to the shuffling of staff. There is one position that is still open.

Judy Henning moved to approve the Financial Report, seconded by Janet Henning. Motion #3 carried.

Introduction of new PHS staff:
Jenik Davis is now the Administrative Assistant. She comes to PHS, after working with Active Military members their families over the past two years in Military Resource Education.

Sarah Eason was just hired as the Performance & Quality Improvement Manager. She will also be working on accreditation process. Quality improvement and performance measures are priorities for PHS and they are also a major part of accreditation. She just moved here from South Carolina in June.

An LPN was also hired to replace a lost Community Health Work at the Beatrice location.
Minutes of PHSDHD Board of Health Meeting

Introduction of new BOH Member:
Mark Schoenrock was appointed to replace Arthur Craig for the Jefferson County Commissioner position. He retired from the military and moved back to Jefferson County.

Audit Report:
Carrie Gufstason from Dana Cole and Company reviewed the audit results with the Board of Health. A draft report was distributed to the members at the meeting. Overall the audit went very well and Sonya Williamson was commended for the clarity and completeness of her records. She said the only deficiencies were those that are the result of the small agency size. These were cited previously in the area of internal controls. PHS does not have a large staff to support the segregation of duties that is desirable. She added that this is typical in rural communities and in small agencies. There was clarification that when discussing “billing” it is on a medical billing stance, and not under different terms. No negative or missed billings were found. True documenting process and tracking have been a major piece of not having a negative findings. There has been change in the standards for the pension plans provided in the draft that explains how the regulations have changed. That shows as an asset vs liability. She went on to go over the pay role differences for employees that are full time with benefits or part time temporary.

Judy Henning moved to approve the Audit report as presented, seconded by Dr. Bruce Kennedy. Roll Call was carried with all yays. Motion 4 carried.

Directors Report: Information regarding the Legislative resolution to study ongoing funding of local
Ford previously sent information to the BOH members about the Legislative Resolution about LHD funding and the funding request sent to the governor. There will be a hearing on December 1\textsuperscript{st} about the resolution. Jane pointed out that our funding has not increased since 2002. Relying on grants and contracts makes management of the agency a challenge.

- Dave Bruning asked if the Governor has been informed or educated about the local health departments. Bruning stated that the Governor wants to learn how all these things work, and thinks he would be open to a meeting from the BOH members. He said following the steps in the getting to talk with Governor is important as he will direct you to speak with whomever first if you haven’t.
- Mark Schoenrock asked what Senators have seen this and what their reaction has been. He asked if there is a certain Chain of Command that we need to go through before just going straight to the Governor. Ford responded that there is no line authority from the locals to the State. He asked for a page of information so that they might approach him in their ways.
- Ford stated that she did not think he was aware. She informed the group that Senators Ebke and Baker agreed this is something that needs to be looked at.

Ford went on with her report into Accreditation and Strategic planning from the staff. The strategic planning was a way to get staff ready for accreditation. She stated it is important to get staff more knowledgeable and involved in agency administrative issues as well as with the BOH members. The staff will then be part of budget preparations, and community health planning.

Mark Schoenrock would like a chart of who does what.

The Board/Staff strategic planning session originally scheduled for November 13, 2015 will be rescheduled after the first of the year. It is to be be conducted by staff from the UNMC College of Public Health. It will include some orientation to public health as an introduction and then will proceed into the strategic planning session. We estimate it will be about 4-6 hours. Board members expressed interest in the session. We will work with Board members to determine details.
Minutes of PHSDHD Board of Health Meeting

PHS was advised that the statement of flood expenses that we submitted to NEMA has been accepted by FEMA. PHS will be receiving reimbursement for some of the PHS flood related expenses. FEMA will be refunding based upon the documentation we provide. Most of this was given to FEMA but some other documentation is needed before they can determine the final amount.

Annual Report:
Jane presented the BOH members with a draft of the Annual Report. Explained that it has our goals and programs listed. Board members were very complimentary about the report.

- Mark Schoenrock strongly suggested that we get this information in front of the public. Through media avenues, elected officials and educating the public.

Judy Henning moved to accept and distribute the Annual Report to the media and public officials, seconded by Janet Henning. Roll Call was carried with all yays. Motion #5 carried

Minority Health:
Jane shared a report of the two year Minority Health project. The program received $65,000 in funding over the two years. This does not cover program expenses so Department health funds are used to cover the deficit. The purpose of the program is to identify those with diabetes, pre-diabetes, and hypertension and then educate and connect them to services. The prevalence of these chronic illnesses is high. There are no local services for ongoing care for the uninsured so many are eventually cared for in Lincoln, at Peoples Health Center, the closest FQHC. The program provides ongoing assistance through the PHS Community Health Worker. The program was just refunded for another 2 year term. The program has already demonstrated increased effectiveness because of changes that were implemented as a result of our experience with the first grant.
Dental Report:
Carmen reported on the Dental program. She passed around handouts that included kits that they give to the kids they see. They see kids for screenings, cleanings, fluoride varnish and sealants and are working on promoting and educating on preventive care. They have started seeing people in the minority health programs, and will be opening up to more people through appointments here in the clinic. They have seen 40% of the kids in the communities. She gave statistics on the risk reduction in the areas they have been seeing over a few years' time. The WIC clinics have been a good source for educating young mothers. Jeremy Christiansen explained that the higher rate of kids served in Jefferson County is a result of two factors. One the school has been very active by inviting the program into the schools and actively seeking the dental programs. Second, there is a nearly 60% poverty rate within the schools, and very limited dental support in the community.

Motion to continue to look for funding for dental program so that the services can be continued, Mark Schoenrock motioned and Jeremy Christiansen seconded. Roll Call was carried with all yays, Motion #6 was carried.

Grant Acceptance:
The Safe Roads grant award was included in the mailing. The BOH was asked to accept the funds.

Larry Cerny moved to accept the grant, seconded by Dave Bruning. Roll Call was carried with all yays, Motion #7 carried.

Strategic Plan:
Sonya Williamson reported on the Staff Strategic plan to be ready for accreditation. The staff had a positive response to the facilitator. There was five different areas brought to the attention on how to move forward. Orientation/Hiring Process, Quality Measure, Engaging Public Relations, Accreditation, Develop Competent Staff.

Nominating Committee:
A slate will be assembled for the Board officers that will be presented at the annual meeting in January.

Pamphlet & Website:
Ford presented the BOH members will a sample brochure, and ideas as to what the website will look like.

Open Forum: Larry Cerny gave a brief history of why BOH exist, and the importance of keeping them and PHS active. Arrangements for the Board/Staff Education and Strategic Plan session were discussed. Willimason suggested we might have this event in February. Details will be released once decided.

The next Board of Health Meeting is Thursday, January 21, 2016 at 8:30 a.m. in Crete, NE.

Being no further business, Larry Cerny motioned to adjourn, seconded by Dr. Bruce Kennedy. Motion #7 carried. The meeting was declared adjourned.
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Minutes of PHSDHD Board of Health Meeting

PUBLIC HEALTH SOLUTIONS
District Health Department

Board of Health January 21, 2016

Board Members in Attendance:
Janet Henning    Bruce Kennedy    Dave Bruning
Judy Henning    Jenna Cook    Mark Schoenrock

Board Members Present via Telephone:
Paul Utemark, Jeremy Christiansen

Board Members Absent:
Dennis Byars    Linda Ament    Trudy Clark

Staff Members in Attendance:
Jane Ford Witthoff, Health Director; Sonya Williamson Fiscal Aide, Jenik Davis Administrative Assistant

Call to Order:
The Chair called the Board’s attention to the Open meeting posting. The meeting was called to order at 8:45am by Dr. Bruce Kennedy. (Attendees appear above).

Approval of Agenda:
The agenda was reviewed. Janet Henning moved to accept the agenda, seconded by Mark Schoenrock. Motion #1 carried.

Approval of Minutes:
Minutes were emailed before the meeting as well as distributed at the onset of the meeting. Judy Henning moved to approve the November 19, 2015 minutes, seconded by Janet Henning. Motion #2 carried.

Financial Report:
Financial reports through December 2015 were sent in advance to the Board as well as distributed at the meeting. Sonya gave the report and explained that some fluctuations might make the totals look off. She noted that reimbursements were lower for Skip Flu this year because of the recall on the mist.

Questions were raised about the Budget vs Actual. Sonya said 50% of the budget was true because the cash flow fluctuates. She said this is primarily because PHS pays expenses up front, and then gets reimbursed later.

Payroll service were questioned with just a few topics that needed to be explained. These included clarification that “coaching” was function for Rooted in Relationships and other health programs. Daycare services would also be part of that. She also noted that for this upcoming month amounts will look different because of policy renewals and memberships. Mileage reimbursement was questioned. The amount of mileage reimbursement is high but what is paid per individual may not be adequate to cover lease expenses. We will need to examine this more closely in the coming months to determine whether any savings could be garnered with the use of lease vehicles.

Dave Bruning moved to approve the Financial Report, seconded by Jenna Cook. Motion #3 carried.

Election of New Officers:
Dave Bruning moved to keep current officers in place. Bruce Kennedy said he would not serve another
Minutes of PHSDHD Board of Health Meeting

term because it was time for new blood. The motion. #4 was rescinded.

There was a discussion of current officers noting that Dennis Byars had been unable to attend meetings. Jenna Cook indicated she would not be available for nomination because she had just accepted a new position for PHS. Judy indicated because of her job she would not be able to attend a number of meetings. Nominations were made as follows: Larry Cerny President, Dave Bruning Vice President, Paul Utemark Secretary, Jeremy Christiansen Treasurer.

Judy Henning moved to close nominations and unanimously accept the slate as presented. seconded by Janet Henning. Roll Call was carried with all yays. Motion #5 carried.

Directors Report:

The director announced that the Annual Reports for 2015 had been printed and was ready for distribution. Members were encouraged to take as many copies as they want to personally distribute. The balance would be distributed as previously discussed.

Included in the BOH members meeting packets were staff reports for the month of December 2015.

Jane raised the issue of legislative support for funding. Mark Schoenrock suggested that the Board go on record as supporting the legislation. Members were in favor with some discussion about how to proceed. Mark suggested that staff draft a letter and send it and other material related to the bill to the Board members for their review. Dave suggested and others agreed, that the letter should come directly from the Board. The Board members would have an opportunity to revise it as needed. It was decided that the letter in support of the letter and funding would be sent to our legislators, appropriate committee members and to the Governor. Mark said that the PHS Staff draft a letter in support of the bill and funding for signature by the BOH.

Dr. Jenna Cook moved to go forward with the letter and plan of action. Janet Henning 2nd. Roll Call was carried with unanimously. Motion #6 carried.

Strategic Meeting:

Jane Ford Witthoff reminded the Board of the BOH and PHS staff strategic meeting for February 18, 2016 in Crete. The time is 9 to 3 and it will be held in Crete. The meeting will be conducted by the UNMC School of Public Health, This is a critical meeting.

This will be a meeting to discuss future direction and strategic issues.

She indicated that this was a primary function for the Board of Health to provide guidance and direction regarding the allocation of Department resources and the direction of the Department. Some minor examples might be how we should respond to housing related complaints and bugs. The counties have delegated the authority for handling nuisance complaints to PHS in all unincorporated areas. However, in incorporated area, many have retained their authority for handling nuisances and maintain a Board of Health for this purpose. In addition they sometimes pay a housing inspector. As a courtesy we have responded to citizen complaints. Lately these complaints have become more burdensome primarily because of bed bugs and landlord tenant issues. We will be gathering information about these problems, the cost of our response, and options. As a start it was suggested that we list the complaints we get with an assessment of priority and impact of action or inaction. The concern of the time, funding, and value of complaint response is an area of concern

There is a similar concern with Radon which is a health threat as it is a leading cause of lung cancer now. We have high radon levels and get only $3,000 in funds to educate the public. We must supply
Minutes of PHSDHD Board of Health Meeting

an additional $1,000 as match. Traditionally we have been encouraged to purchase and distribute kits free of charge. They cost $10.00/kit and can be purchased by residents in many places. The idea had been when we sell the kits we would get the results and then be able to follow up with those who have high levels. Unfortunately less than half of those who get free kits place them in their homes and send them back in for analysis. We want to revise our program to make it more effective. Ultimately the most effective approach with the radon problem would be to encourage builders to include radon resistant features in new homes and incentives to remediate problems in older homes. We would like to stop the distribution of free kits and instead charge a deposit that would be returned to the homeowner when they placed it and have it processed. This will not solve the problem all together but our efforts would be more effective in the long run. The BOH has requested this change be pursued.

**Directed Health Measures:**
PHS does not have automatic authority in incorporated towns and/or villages in emergency situations. We do respond but may not have authority to do so in some situation. We need to clarify whether we need to pursue agreements with incorporated areas in order to respond as required. We will be in contact with the state program to clarify whether we need to do this. In order to recapture expenses at some time in the future.

**Healthy Pathways:**
The status of Healthy Pathways and other projects will be major points of discussion as we move forward. A brief discussion about this upcoming year’s projects and budgets were discussed.

**Community Health Worker Film:**
Following the Healthy Pathways discussion, the BOH watched a short film that was produced about Community Health Workers that featured Maria Schinstock.

**Open Forum:**
In response to a question from Mark Schoenrock, Jane clarified that requests to meet with the County Boards would be sent this coming week.

The strategic meeting of the Board of Health will be on Thursday February 18, 2016 from 9 to 3 in Crete.

The next regular Board of Health Meeting will be on Thursdays Thursday, March 17, 2016 at 8:30 a.m. in Crete, NE.

Being no further business, Dr. Bruce Kennedy moved to adjourn, seconded by Janet Henning. Motion #7 carried. The meeting was declared adjourned.

Respectfully submitted,

Jenik Davis
Recording secretary.
PUBLIC HEALTH SOLUTIONS
BOARD OF HEALTH MEETING AGENDA
8:30am on Thursday, March 17, 2016
Public Health Solutions District Health Department
995 East Highway 33, Suite 1
Crete, NE 68333

Meeting Facilitator: Jane Ford-Witthoff, Health Director

Invitees: Linda Ament, Dave Bruning, Larry Cerny, Jeremy Christiansen, Trudy Clark, Dr. Jenna Cook, Janet Henning, Judy Henning, John Hill, Dr. Bruce Kennedy, Mark Schoenrock, Paul Utemark

Call to Order

Roll Call

1. Agenda for approval
2. Minutes from last meeting (1/21/16) for approval
3. Financial Reports for acceptance
4. Director Report
5. Draft of PHS Communications Plan for action
6. Proposed program changes for action
7. Alternatives for BOH meetings for discussion
8. Open Forum
9. Next meeting Board to set

Meetings for FY 2016: Meetings are conducted in accord with the Open Meetings Act. Public Notice of the meeting is published within the Counties of Gage, Saline, Thayer, Jefferson and Fillmore. The Agenda is posed at least 10 days in advance at the Public Health Solutions District health Department Office where it is kept continually current. The Board may go into executive session at any time as permitted in the Open Meetings Act. Meeting Attendance is also available through the Nebraska Telehealth Network by calling the Department. The schedule and locations are posted on the on-line Telehealth schedule and in the Department Office.
Minutes of PHS Board of Health Meeting

PUBLIC HEALTH SOLUTIONS
District Health Department

Board of Health March 17, 2016

Board Members in Attendance:
Janet Henning     Bruce Kennedy     Dave Bruning     Larry Cerny     Paul Utemark
Jenna Cook       Mark Schoenrock     Linda Ament     John Hill

Board Members Present via Telephone:
Jeremy Christiansen

Board Members Absent:
Trudy Clark, Judy Henning

Staff Members in Attendance:
Jane Ford Witthoff, Health Director; Sonya Williamson; Fiscal Aide; Jenik Davis, Administrative Assistant

Call to Order:
The meeting was called to order at 8:33am by Larry Cerny. (Attendees appear above).

Approval of Agenda:
The agenda was reviewed. Linda Ament moved to accept the agenda, seconded by Janet Henning. Motion #1 carried.

Approval of Minutes:
Minutes were emailed before the meeting and distributed at the onset of the meeting. Janet Henning moved to approve the January 21, 2016 minutes, seconded by Dave Bruning. Motion #2 carried. Linda Ament, Abstained.

Financial Report:
Financial reports through January 2016 were emailed to all board members prior to the meeting. Sonya Williamson gave a summary of the financial reports.

Board members had questions concerning the overage on the Hotel expenses. Sonya explained that certain programs require trainings that could be up to three weeks. Healthy Family’s America, had three employees that were went through the trainings, which ended up being a big part. It was asked if there was a lot of turnover in the program that caused three people needing to be trained. Sonya explained that there was former employees that had to be replaced for none issue related withdrawals, and that one employee with PHS was slated into one of the three positions. The board members concluded that Hotel and Travel budget will need attention for future planning.

The status of this year’s budget was discussed as far as if PHS is on track. Sonya relayed with changes of software and outside strategic work support, will be fairly close.

Linda Ament moved to approve the Financial Report, seconded by Dave Bruning. Motion #3 carried.
Minutes of PHS Board of Health Meeting

Directors Report:
Jane Ford Witthoff explained that a summary of staff activities was emailed to the board as part of the meeting packet. She is looking at reporting department work to the Board in a more descriptive manner rather than the periodic brief updates sent previously. In this way the Board can be more informed without taking added meeting time. She reported that the Saving Rural Hearts Program had its first "save." With that she went on to report that in all the counties within the district, we have several activities going on with our programs.

Communication Plan: She gave a run down on our current communication efforts. Guidance from the board was sought for ideas on future plans and/or ideas. They discussed the value of interacting with Village Boards, churches and other key people within communities. There will be an increase in contact of these individuals along with School staff and Hospital CEOs. The expense of radio and newspaper ads were not showing the results that we had been looking for. The possibility of closing contracts that currently exist and/or when completed and looking more toward visual based marketing, i.e. TV, movie theater commercials, and/or billboards was suggested. PHS communicating messages rather than advertising the agency as such was the desired route. There was a high value placed on increasing personal contacts. It was suggested that PHS also reach out to the Chamber of Commerce within the communities. The plan was accepted based on consensus and no formal action was taken.

Program Changes:

Radon:
While the radon program is an important program, we receive only $3,000 in grant funds which we must match with $1,000 of our health funds. The purpose of the program is to educate the public about the health risks of radon, encourage them to test their residences and remediate radon seepage if they find elevated levels. We want to use the grant funds more effectively. We have been distributing the test kits (which we purchase for $5.00/kit) free of charge. As a result, less than 1/2 of the kits are returned in a timely manner. This is not acceptable. She proposed that the free distribution of kits be discontinued and that a refundable deposit be required with the distribution of kits in the future. This would increase the return rate and leave more money available for education of the public and work with builders and remodelers. Board members asked that educating the public on where and how to test for radon needs to be emphasized along with data showing the impact on lung cancer rates in our communities.

Nuisances:
Responses to nuisance complaints will be in line with the public health impact of the nuisance. The importance and severity of complaints will be factored into the time and intensity of responses. This will affect complaints about bed bugs, yard waste, landlord tenant complaints and junk calls. Responses will be in writing and will emphasize an educational approach and advice to the regulatory body with authority such as codes enforcement. We will make declarations of public health risk but will only pursue legal action in cases where we have authority or when there is an imminent public health risk.

The anticipated loss of funding for the dental program is of great concern. An analysis of program performance and alternatives for the future will be explored for the Board. These plans will be discussed with key people to determine their feasibility. This program has suffered because of political controversy and the reluctance to put the proper CMS codes in place. Last, the state priority setting process displaced dental care as a priority.

Staff proposed that the Rural Roads grant not be renewed in the coming year because it does not incorporate evidence based strategies. While the Board accepted this they asked that other alternatives be explored for public education. The board believes that public education on the issue of traffic safety must be in place.

Bruce Kennedy moved to accept the motion, seconded by Paul Utemark. Motion #4 carried.
Minutes of PHS Board of Health Meeting

Alternative to BOH meetings:

Board agreed to keep the same meeting schedule, but in the off months electronically send out some kind of communication on items that need extended attention so they can be discussed effectively in meetings.

Open Forum:

No discussion.

The next Board of Health Meeting is Thursday, May 19, 2016 at 8:30 a.m. in Crete, NE.

Being no further business the meeting was declared adjourned.

Respectfully submitted by Jenik Davis
# PUBLIC HEALTH SOLUTIONS

## Board Members Roll Call & Roll Call Votes

**Meeting Date: March 17, 2016**

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**MOTIONS**

Present: 10
Absent: 2
Call to Order:
The meeting was called to order at 8:35am by Larry Cerny. (Attendees appear above).

Approval of Agenda:
The agenda was reviewed. Bruce Kennedy moved to accept the agenda, seconded by Linda Ament. Motion #1 carried.

Approval of Minutes:
Minutes were emailed before the meeting and distributed at the onset of the meeting.

The minutes will stand as presented.

Financial Report:
Financial reports through March 2016 were emailed to all board members prior to the meeting. Sonya Williamson gave a summary of the financial reports. Sonya also gave a brief summary on what the new billing system is able to do. The new system would be able to pull better reports for financial captures specific areas of interest.

When looking over the financial, Bruce Kennedy and Dave Bruning had a few questions. One questioned the name of Brittany Rogge. Brittany is a Dental Hygienist that contracts with the dental program. The other was Circle of Security. Circle of Security is a parenting program offered through the PHS Rooted in Relationships Program.

Members were given a budget layout, and reminded that budget would be on next meeting’s agenda for action.

Dave Bruning moved to approve the Financial Report, seconded by Jeremy Christiansen. Motion #2 carried.

Directors Report:
Before Jane started into the report, she asked for a closed executive session with the members, after meeting the agenda items. The members agreed to the closed executive session at the end of the meeting agenda.
Minutes of PHS Board of Health Meeting

She noted that with the resignation of Dave Wieting, Kim Buser is now the Emergency Response Coordinator. This will be the first time that this position will be filled with someone who has a clinical health background. Given the emerging treats this will be good. Jane referenced the challenges for the department including the loss of some program funds. The Board will need to consider community needs and options as it sets the course for the coming year. There is one vacant position, although it is not fully funded. In addition, Adam Zoubel will be leaving for medical school. We are seriously assessing the value of each program and searching for funding. In any case the current staff structure will need to change as programs are adjusted and we focus on accreditation. Staff reorganization and revised job descriptions will be a priority.

An update from the annual FRIENDS meeting was given. Friend which is composed of representatives of a number of local health department wants to again request funds from the legislature. She expressed concern that the group had not adequately made a case for the urgency of the need. It has been difficult because of the diverse needs among the members. She stated from her perspective, the need is urgent. The Board asked that the State Senators representing the PHS area be invited to attend the next BOH meeting at 10:00.

Program Discussions Direction:

Health Pathways: Direction
Jane gave a brief summary about the origins and life of the Healthy Pathways Program. The purpose has been to improve the health of residents, improve their care and contain costs. The direct impact was to decrease inappropriate emergency room use and decrease readmissions. The program focus on ER referrals was flawed. The focus today is on partnering with physicians and clinics. There is also a need for a more directed focus on reducing the number of people with undiagnosed and untreated chronic illness.

There is a continuing discussion about the importance of health care navigation and the social factors which serve to complicate the provision of care and impair the health of so many. Some have a hard time just managing their lives. That is a societal problem and in most communities, the reimbursements for the healthcare providers is just not quite there yet. Public Health Solutions is a good umbrella that covers a wide spectrum of needs, however, there is no ongoing source of financial support for this work. The CMS grant if funded might help but the cost will still well exceed available funds.

VetSET: Direction
Jill Kuzelka, the Veteran Community Advocate & Coordinator for the VetSET gave a brief presentation about VetSET and what it does for veterans living in the rural communities. She reported on what she has done to increase the access to care for veterans and to increase the services provided through local health care providers. She has been informing hospitals, clinics and veterans about the Choice Program. She was able to coordinate some briefs between the Choice Team and individuals, bringing awareness and resolution of serious barriers. She has been able to cut through red tape thus enabling veterans to access health care closer to home. As a result Nebraska care providers are now able to care for "Kansas" veterans. She is also increasing the number of nursing homes which can provide care. The VetSET program is over in September 2016, but will have some funds to carry over. This is a pilot program that we believe has shown its value. The Board was asked to help find ways to continue it.
Minutes of PHS Board of Health Meeting

Dental Program: Discussion
Carmen Chinchilla gave a brief update on dental program. She was able to show members a PowerPoint and materials that had data she has captured from around the district.

Members had a discussion on what or who our main contact is for getting this program in the communities. A member suggested that the key point into schools would be the school nurses, and from that be able to find out what schools are wanting. John Hill had an open question if the school nurses are actively following up or engaging kids who were screened and found to have dental needs. And is the information getting to the parents or guardians with encouragement to find a dentist. Along those discussions, Bruce Kennedy spoke of a possible addition going into hospitals, which a dentist would have a dental room at hospitals for people that come in with a dental emergency vs traditional emergency. Careful consideration needs to be given regarding what aspects of the program are needed and should be considered. Funding is being sought.

Healthy Families of America: Decision
Jane gave a brief summary on the miscalculations that the funder made in the grant. The sum equals $44k that would be taken away from the program. So there is some shuffle happening in Healthy Families of America’s staff. One family health worker resigned during her maternity leave. The clerical position will need to take on some of the responsibilities to assist the family health workers given that she is a Community Health Worker.

Health Plan: Direction
Jane announced that Public Health Solutions will be looking at county plans individually vs a district plan. Forming partnerships with the hospitals will be the great focus.

These plans are looked at every three (3) years, as Mark Schoenrock questioned how often this happens.

Open Forum:
Dave Bruning had questioned the status of the Zika virus, and our plan for the community. Jane informed the group that there are no locally acquired cases in the US. However there are and will continue to be travel-associated cases. The mosquito which enables the transmission of the virus is not known to survive in our area. The best advice for all is to avoid mosquitoes and mosquito bites as they are the source of a number of viral illnesses.

There was also a question regarding the advisory of doctors cutting back the usage of the antibiotics, Levaquin and Cipro because of their possible side effects. Jane’s response to his question, was this was a topic she suspects is associated with the concern about antibiotic resistance. She will verify this.

Paul Utemark talked about how doctors are looking at pain management differently, because of the over prescribed and usage of opiates.

Executive Session:
Linda Ament moved to go into the closed executive session, seconded by Paul Utemark. Motioned #3 carried at 10:10 A.M.

The executive session closed at 10:15 A.M. with the motion from Judy Henning, seconded by John Hill. Motion #4 passed. No action was taken.

The next Board of Health Meeting is Thursday, July 21st, 2016 at 8:30 a.m. in Crete, NE.
Minutes of PHS Board of Health Meeting

Being no further business the meeting was declared adjourned.

Respectfully submitted by Jenik Davis
### PUBLIC HEALTH SOLUTIONS

**Board Members Roll Call & Roll Call Votes**

**Meeting Date: May 19, 2016**

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