

MAY 2021

Closed Session Guidance for SWCDs

Background Information

Local soil and water conservation district boards are public bodies and are subject to North Carolina's Open Meetings Law

There are specific situations where these boards may go into closed session and exclude the public

The law makes provisions for privacy when open sessions might harm public interests or an individual's privacy

Permitted purposes for Closed Session

NC G.S. 143-318.11

To prevent disclosure of...

1) information that is privileged or confidential pursuant to the law... or not considered a public record within the meaning of Chapter 132

(2) an honorary degree, scholarship, prize or award

(3) attorney-client privilege

(4) location or expansion of industries

(5) negotiating the price or proposed contract for real property, or an employment contract

(6) to consider qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee; or to hear or investigate a complaint, charge or grievance by or against an individual public officer or employee

(7) investigations of alleged criminal misconduct

(8) local board of education plans regarding school violence

(9) plans to protect public safety related to terrorist activity

(10) view a recording released pursuant to G.S. 132-1.4A

Calling a Closed Session

A closed session may only be held when a proper motion is made and adopted during any of the board's open meetings

The proper motion will state a purpose of one of the ten legislated and permissible reasons. If the reason for the closed session is an item made confidential by state or federal law, the motion may also identify the specific law by name

The board may ask other people to assist the board by attending the closed session

Closed session minutes should give a general account of subjects discussed and capture any action taken

The board should only address the item cited in the motion during the closed session

Closed Session Motion

Chairman – “We have a motion and a second to go into closed session to prevent disclosure of information that is privileged or confidential. The information to be reviewed is protected by Section 1619 of the 2008 Farm Bill.

All those in favor say “aye”.

Motion carries.

This board will now go into closed session. We would like for our NRCS partner to please remain seated and assist us with this issue.”

Points to remember

Certain decisions are excluded from Closed Session by statute (e.g. Personnel Policy); approval of state cost share applications, contracts and RFPs should always occur in open session

The meeting should not adjourn from Closed Session; a motion should be made to return to Open Session for adjournment

For closed session minutes, they should be a “general account of the closed session so that a person not in attendance would have a reasonable understanding of what transpired”

For closed session minutes, they “may be withheld from public inspection so long as public inspection would frustrate the purpose of a closed session”

CLOSED SESSION

Questions?