

ISN'T THAT SPECIAL

The Rules on Special Meetings

2019 Summer Specialized Training
Ruth Simpson and Lori Stalker

SPECIAL MEETINGS

It considered a special meeting if the meeting is a different date, time, or place than established by the Regular Meeting schedule.

Meetings Under the Open Meeting Law

- Regular Meetings
- Special Meetings
- Emergency Meetings
- Closed Meetings

Regular Meetings of the Town Board

- Regular meetings are meetings of the town board occurring on an established schedule. The frequency of regular meetings is determined by the town board and reflected in the schedule.
- A schedule of the regular meetings of a township shall be kept on file at its primary offices.
- Best Practice is to post the meeting schedule.

Forms 1 & 2

What about holidays?

No public business may be transacted on any holiday, except in cases of "necessity." Minn. Stat. § 645.44, subd. 5.

Holidays

- New Year's Day, January 1;
- Martin Luther King's Birthday, the third Monday in January;
- Washington's and Lincoln's Birthday, the third Monday in Feb.;
- Memorial Day, the last Monday in May;
- Independence Day, July 4;
- Labor Day, the first Monday in September;
- Christopher Columbus Day, the second Monday in October; (Optional for local governments)
- Veterans Day, November 11;
- Thanksgiving Day, the fourth Thursday in November;
- The Friday after Thanksgiving; (Optional for local governments)
- Christmas Day, December 25
- When New Year's Day, January 1; or Independence Day, July 4; or Veterans Day, November 11; or Christmas Day, December 25; falls on Sunday, the following day shall be a holiday
- When New Year's Day, January 1; or Independence Day, July 4; or Veterans Day, November 11; or Christmas Day, December 25; falls on Saturday, the preceding day shall be a holiday.

Notes

BEST PRACTICE

Public bodies may decide whether Christopher Columbus Day and the day after Thanksgiving will be treated as holidays.

Townships should pass a resolution deciding if the optional holidays – Christopher Columbus Day and the day after Thanksgiving – are holidays.

Form 3

No Meetings on Election Days

Meetings also may not be conducted between 6:00 p.m. and 8:00 p.m. on the day that an election is held within the boundaries of the public body.

Election Dates

Minnesota has two main election dates:

- The primary election date, held on the second Tuesday of August, and
- The general election date, held the second Tuesday, after the first Monday in November.

In 2017, the Legislature created five dates that Special Elections could be held

1. The second Tuesday in February
2. The second Tuesday in April
3. The second Tuesday in May
4. The second Tuesday in August
5. The second Tuesday after the first Monday in November

If a meeting falls on any of those dates when a special election is held, the Township cannot meet between 6 and 8 p.m.

Special Meetings under Open Meeting Law

Special meetings are either meetings *in addition* to regular meetings or are regular meetings that occur at a *different date, time, or place than established in the schedule*. Public bodies typically have *broad discretion* to call special meetings as needed to conduct their business.

Calling the Special Meeting

There is no specific procedure for town boards to call a special meeting.

- Should Chair call?
- Should there be a consensus before calling a special meeting?

BEST PRACTICE

It is recommended the clerk attempt to gain consent for the meeting from at least a majority of the supervisors. In attempting to gain consent it is important to avoid any substantive discussions of the issues for which the meeting is being called. The question is simply: "Do you consent to calling a special board meeting on ___ for the purpose of _____"

Notes

Empty rectangular box for notes.

BOARD POLICY

TM7000 has one example:

Calling a Special Board Meeting. The Board chairperson may call a special meeting of the Board to address an issue or issues that require consideration before the next regular Board meeting. The chairperson shall contact the town clerk of the need for a special Board meeting and the town clerk shall notify the other supervisors of the date, time, and place of the meeting. The town clerk shall provide notice of the meeting as required by the open meeting law.

Notice

Public bodies must *post* written notice of the meeting at least three days before the date of the meeting of the

- date, time, place, and purpose of the special meeting
- on the principal bulletin board of the public body, or if the public body has no principal bulletin board, on the door of its usual meeting room.

Minn. Stat. § 13D.04, subd. 2(b).

When is three days not three days?

The law does not allow the counting of the day of posting or the day of the meeting, so the three days must fall in between.

Five Finger Rule

Using the fingers of one hand, use your thumb to designate the day notice is to be posted. Then count the days down your fingers until you reach your pinkie finger. The pinkie finger represents the first day the meeting can safely be held.

Do you count weekends?

Weekend days and holidays may be counted as days of notice. However, if the last day of the notice period falls on Saturday, Sunday or a legal holiday, that day must be omitted from the computation. Minn. Stat. § 645.15.

Can we hold a meeting on a weekend?

- Public meetings may be held on weekends.
- However, the Saturday and Sunday may not be counted as the last day of notice.
- The entire required period of notice must be satisfied before the weekend.

When can Special Meeting be held?

When is the earliest a meeting could be held from today?

BEST PRACTICE

MAT recommends public bodies avoid holding meetings on weekends generally.

Forms 4 & 5

Notes

BEST PRACTICE

- The business of the Special Meeting cannot exceed those listed in the purpose for the meeting.
- Exceeding that notice, would constitute a violation of the Open Meeting Law.
- List all the purposes of the meeting!

Written Requests for Notifications of Special Meetings

- Minn. Stat. § 13D.04 (2) allows individuals to request notice of Special Meetings be sent to them.
- The request must be in writing.
- This notice shall be posted and mailed or delivered at least three days before the date of the meeting.
- Can be limited to specific subjects

Alternative Form of Notification

As an alternative to mailing or otherwise delivering notice to persons who have filed a written request for notice of special meetings, the public body may publish the notice once, at least three days before the meeting, in the official newspaper of the public body or, if there is none, in a qualified newspaper of general circulation within the area of the public body's authority.

How long does the Written Notification last?

- The public body may establish an annual expiration date for requests of notice.
- Not more than 60 days before the expiration date of a request for notice, the public body shall send notice of the refiling requirement to each person who filed during the preceding year.

BEST PRACTICE

1. If a public body is interested in establishing an expiration date, it is best to be done by resolution.
2. The public body may develop a standard form for making a request for notice of special meetings.
3. The benefit of such a form is to develop a uniform manner of making the request.

Forms 6, 7 & 8

At the Meeting

- Special meetings are conducted in the same manner as regular meetings, following the same procedures and policies.
- Have an extra copy available at the meeting for the public of written materials relating to agenda items that were prepared or distributed to the town board.

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| Notes |
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- If a member of the town board or a member of the public attempts to raise issues at the meeting that fall outside the scope of the meeting's purpose, the chair should rule them out of order and the topic not discussed.

What about on-site inspections?

- Town boards are allowed to conduct on-site inspections without complying with the requirements of the Open Meeting Law if they do not have employees or staff able to perform the inspections. Minn. Stat. § 366.01, subd. 11.
- If the township as staff, if the board were going out to do inspections, a special meeting notice would be needed if it isn't on the regular meeting schedule.

REMEMBER THIS ONLY AN INSPECTION. NO SUBSTANTIVE BUSINESS CAN BE DISCUSSED!

Special Meeting vs. Special Town Meeting

- Special Meetings are town board meetings and run like a regular board meeting.
- Special Town Meeting is governed by Minn. Stat. § 365.52
- Special Town Meetings involve the town electorate like Annual Meeting.
- Special Town Meetings are called by the supervisors and clerk or two board members and 12 electors or by a petition of 20% of electors who voted at last election.
- Notice must be published 10 days before the Special Town Meeting.

Emergency Meetings

- "An 'emergency' meeting is a special meeting called because of circumstances that, in the judgment of the public body, require immediate consideration by the public body." Minn. Stat. § 13D.04, subd. 3(e).

Special Meetings versus Emergency Meetings

Emergency Meetings

- Notice: Posted or published notice of the meeting is not required
- If a news medium – paper, radio, TV – have filed a written request of notice, a good effort must be made to notify them, but only if you have their phone number

Special Meetings

- Notice: 3-day posted notice;
- People requesting notice of special meetings must be notified.

Minn. Stat. § 13D.04, subd. 2. And Minn. Stat. § 13D.04, subd. 3.

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| <p>Notes</p> |
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What is an emergency?

- An emergency meeting may only be called in situations that call for immediate action to protect the public’s peace, health, or safety.
- MN statute defines emergency as “an unforeseen combination of circumstances that calls for immediate action to prevent a disaster from developing or occurring.”

What isn’t an emergency?

- Calling an emergency meeting to take advantage of a “great deal” on the purchase of a piece of equipment before anyone else buys it is not proper.
- Self-created “emergencies” are also not a sufficient basis for calling emergency meetings. For instance, waiting to the last minute to take action on an administrative matter does not give rise to an emergency for the purpose of the Open Meeting Law.

At the Meeting

Take reasonable steps to keep a record of the proceeding. Include in the record the reasons for calling an emergency meeting and the purpose of the meeting.

If matters not directly related to the emergency are discussed or acted upon at the meeting, the minutes must include a specific description of those matters. Minn. Stat. § 13D.04, subd. (f).

BEST PRACTICE

Public bodies are strongly discouraged from attempting to discuss or take action on matters not related to the emergency at hand.

Keep detailed records of authorizations and expenditures, especially if there is a chance FEMA may offer financial reimbursements to your community for the emergency.

Closed Meetings

A closed meeting is one which excludes the public. Closed meetings are generally prohibited by the Open Meeting Law unless there is a statutory exception.

When may a meeting be closed?

May Close

- To evaluate the performance of an individual who is subject to the board’s authority.
- Attorney-client privilege.
- To determine the asking price for real or personal property to be sold by the town.
- Labor Negotiation
- Receive Security Briefings

Must Close

- allegations or charges against an individual subject to the board’s authority.

- data that would identify alleged victims or reporters of criminal sexual conduct, domestic abuse, or maltreatment of minors or vulnerable adults;
- data that concerns an investigation of law enforcement personnel; or
- data that concerns education, health, medical, welfare, or mental health that is not public data.

Do the Open Meeting Law notice requirements apply to closed meetings?

Yes. Even though a meeting is closed, it still must still be noticed, and the requirements of the Open Meeting Law must be met.

See Minn. Stat. § 13D.04, subd. 5

BEST PRACTICE

Since a closed meeting is generally a "special" event on the board's calendar, MAT recommends that to the extent possible, closed meetings be posted and handled as special meetings.

Closed Meeting Procedure

- To go into a closed session or closed meeting, the Board must be at an open meeting.
- If you need to call a special meeting, then two notices would be required, one for the open meeting and one for the closed meeting, or one notice that addresses both the open and the closed components of the meetings.
- During the open session, the town board should formally move, on the record and in the minutes to close the open meeting and go into a closed meeting for and the purpose of the closed meeting.

Forms 9 & 10

Audio Recording and Minutes for Closed Meetings

- Towns must audio record closed meetings, except those closed under the attorney-client privilege, and preserve the recording for at least three years. Minn. Stat. § 13D.05, subd. 1(d).
- The Open Meeting Law does not expressly require minutes to be kept of closed meetings. Check with your town attorney if closed meeting minutes should be taken. If minutes are taken, they should be separate from regular minutes and held under seal and not disclosed except under the court order or a specific resolution of the municipality.

Notes

Form 1

**SCHEDULE OF REGULAR MEETINGS
FOR _____ TOWNSHIP,
_____ COUNTY, MINNESOTA**

The town board of _____ Township, _____ County, Minnesota holds its regularly scheduled board meetings on _____ [the second Tuesday of each month] _____ at _____ [7:00] _____ a.m./p.m. at the [town hall located at 123456 Town Hall Drive]

0[If a quorum of the town board is likely to regularly attend meetings of other bodies such as the planning commission, fire board, etc., then it should list those meetings on this schedule:

A quorum or more of the town board may also attend the {Township Planning Commission} meetings regularly held on _____ [the third Tuesday of each month] _____ at _____ [7:00] _____ a.m./p.m. at the [town hall located at 123456 Town Hall Drive.]

If the date of a regular meeting falls on a holiday or conflicts with an election, the meeting will be held in the following week on the same day, time, and place. If a regular town board meeting must be held at a different date, time, or place than indicated above, or if the town board decides to hold a special board meeting, notice of the meeting will be posted at the following public posting place[s] designated by the town board:

A copy of this schedule shall be kept on file at the town’s primary office where its records are kept. This schedule shall remain in effect until changed by motion of the town board.

Town Clerk

Form 2

**ANNUAL POSTING OF REGULAR BOARD MEETINGS
of the _____ TOWNSHIP TOWN BOARD OF SUPERVISORS
FOR 20_____**

The town board of _____ Township, _____ County, Minnesota holds its regularly scheduled board meetings on _____ [the second Tuesday of each month] _____ at _____ [7:00] _____ a.m./p.m. at the [town hall located at 123456 Town Hall Drive]. If a meeting cannot be held as scheduled because it conflicts with a holiday or another day in which a meeting cannot be held, the meeting will be held the following week on the same day of the week, time, and place.

The following are the dates on which the regular board meetings are scheduled to occur in 20__ and reflect any changes due to conflicts:

| MONTH | MEETING DAY(S) |
|----------|----------------|
| January | |
| February | |
| March | |
| April | |
| May | |

| | |
|-----------|--|
| June | |
| July | |
| August | |
| September | |
| October | |
| November | |
| December | |

If a regular meeting cannot be held on the date, time, or place listed above, notice of the date, time, and place of when and where the meeting will be held will be posted at least three days before the day of the meeting.

Contact the town clerk at _____ with any questions.

Form 3

_____ Township
 _____ County, Minnesota

**A RESOLUTION DESIGNATING THE
 OPTIONAL HOLIDAY DAYS AS NOT HOLIDAYS**

WHEREAS, Minn. Stat. § 645.44, subd. 5 gives political subdivisions the option of determining whether Christopher Columbus Day (the second Monday in October) and the Friday after Thanksgiving will be holidays;

WHEREAS, no public business may be transacted on any holiday except the optional holiday days if the political subdivision designates them as not holidays;

WHEREAS, the town board determines there are already a significant number of holidays designated by statute;

WHEREAS, the town board determines it is in the public's interest to not further limit the days on which public business may be transacted;

NOW, THEREFORE, BE IT RESOLVED, that the town board of _____ Township, _____ County, Minnesota determines and hereby designates Christopher Columbus Day and the Friday after Thanksgiving are not holidays and so public business may be transacted thereon.

Adopted this _____ day of _____, 200__.

 Town Chair

Attest: _____
 Town Clerk

Form 4

_____ Township
_____ County, Minnesota

NOTICE OF A SPECIAL BOARD MEETING

Notice is hereby given that the town board of _____ Township, _____ County, Minnesota will hold a special board meeting on _____, 20__, at _____ a.m./p.m. at _____ for the purpose of

[provide a general description of the purpose(s) of the meeting].

Dated this _____ day of _____, 20__.

Town Clerk

Posted on:_____.

Form 5

_____ Township
_____ County, Minnesota

**NOTICE OF A REGULAR MEETING TO BE HELD AT A
DIFFERENT TIME OR PLACE THAN INDICATED
ON THE SCHEDULE OF REGULAR MEETINGS**

Notice is hereby given that the regular meeting of the _____ town board regularly scheduled for _____, 20__ will instead be held on _____, 20__ at _____ a.m./p.m. at the _____. The purpose of the meeting is to conduct the business that was scheduled for the town board's regular monthly meeting.

Dated this _____ day of _____, 20__.

Town Clerk

Posted on:_____.

Form 6

_____ Township
_____ County, Minnesota

**RESOLUTION ESTABLISHING AN ANNUAL EXPIRATION DATE FOR REQUESTS
OF NOTICE OF SPECIAL MEETINGS**

WHEREAS, the Open Meeting Law provides an opportunity for a person to file a request for notice of special meetings (Minn. Stat. § 13D.04, subd. 2);

WHEREAS, public bodies are authorized to establish an expiration date for requests for notice of special meetings;

WHEREAS, in it is the interest of the town board to promote uniformity and reduce the administrative

burdens of handling and responding to requests for notice; and

WHEREAS, once an annual expiration date is established persons having filed a request for notice are given notice of an impending expiration and have the opportunity to renew their request;

NOW, THEREFORE, BE IT RESOLVED, that written requests for notice of special meetings made pursuant to the Open Meeting Law will expire on _____ each year.

Adopted this _____ day of _____, 200__.

Town Chair

Attest: _____
Town Clerk

Form 7

REQUEST FOR NOTICE OF SPECIAL MEETINGS

I, _____, hereby request notice of special meetings of the _____ [town board / city council] as is provided in the Minnesota Open Meeting Law (Minn. Stat. § 13D, subd. 2).

(check one of the following)

I wish to receive notice of all special meetings.

I wish to limit my request for notice to only those special meetings addressing the following subject(s):

I understand that all requests for notice of special meetings automatically **expire** on [January 1] every year. No more than 60 days before the expiration date, I will be sent notice of the expiration and will be given an opportunity to renew my request. It is my responsibility to inform the public body if there is a change in my mailing address and I understand that if I fail to give notice of the change I may not receive notice of special meetings. I also understand that the public body may choose to publish notice of a special meeting once at least three days before the meeting as an alternate to mailing or otherwise delivering, including by electronic mail if available, notice to me of a special meeting.

Name _____

Address: _____

Sign: _____

Date: _____

E-Mail Address: _____

Mail or return the form to:

Date Received: _____

Form 8

YOUR REQUEST FOR NOTICE OF SPECIAL MEETINGS IS ABOUT TO EXPIRE

Date: _____
Name: _____
Address: _____

You are hereby notified that the written request you filed for notice of special meetings of the _____ will expire on _____. After the expiration date, you will no longer be mailed or otherwise delivered notice of special meetings. Public notice of special meetings will continue to be provided as required by law.

If you wish to renew your request notice of special meetings, you may do so by completing the enclosed request form and mailing it to the address indicated on the form.

If you have any question please feel free to contact:_____.

Form 9

_____ Township/City
_____ County, Minnesota

NOTICE OF A SPECIAL CLOSED BOARD MEETING

Notice is hereby given that the town board/city council of _____, _____ County, Minnesota will hold a special closed board meeting on _____, 20 __, at _____ a.m./p.m. at _____, for the purpose of [provide a specific description of the purpose(s) of the closed meeting.] This meeting will be closed to the public for the above stated purpose only.

Form 10

_____ Township/City
_____ County, Minnesota

NOTICE OF A SPECIAL MEETING

Notice is hereby given that the (town board/city council of _____, _____ County, Minnesota will hold a special meeting on _____, 20 __, at _____ a.m./p.m. at _____, for the purpose of [provide a general description of the purpose(s) of the meeting.]

After the above agenda items are discussed, the meeting will then be closed to the public for [provide a specific description of the purpose(s) of the closed meeting.]

Dated this _____ day of _____, 20__.

Town/City Clerk

Posted on: _____.