McHenry County Conservation District
ORDINANCE #20-990

AN ORDINANCE AMENDING THE
COMPREHENSIVE ADMINISTRATIVE POLICY & PROCEDURE MANUAL
2.04.06 REMOTE PARTICIPATION, 2.04.08 STORAGE AND DISPOSAL OF MEETING
RECORDS, AND 4.01 RECORDS RETENTION-PUBLIC ACCESS
AS PRESENTED AUGUST 25, 2020

WHEREAS, under section 12 of the Conservation District Act, 70 ILCS 410/12
(The “Act”), a district is authorized and empowered “To adopt by-laws, adopt and use
a common seal, to enter into contracts, acquire and hold real and personal estate and
take such other actions as may be necessary for the proper conduct of its affairs”; and

WHEREAS, the District is authorized “to make and publish all ordinances, rules,
and regulations necessary for the management and protection of its property and the
conduct of its affairs”; and

WHEREAS, the District has determined that it is reasonable, necessary and
desirable to set forth policies to clarify the organization and administration of the
District; and

WHEREAS, the District had previously created the Comprehensive
Administrative Policy & Procedure Manual which had been last amended on September
24, 2019;

WHEREAS, the District has found it reasonable, necessary and desirable to
amend this policy to incorporate changes to comply with changes to laws regarding
Health Emergencies affecting remote participation at meetings, storage and disposal
of meeting recordings, and records retention - public access as a result of the COVID-
19 pandemic (PA 101-640).

NOW, THEREFORE, be it resolved by the President and the Board of Trustees
of the McHenry County Conservation District that the Comprehensive Administrative
Policy & Procedure Manual Section 2.04.06 Remote Participation in meetings - allowing
the conducting of meetings during public health disasters; 2.04.08 Storage and
Disposal of Meeting Records for conducting meetings during public health disasters;
and, 4.01 Records Retention - Public Access to those meeting recordings which
remains unchanged.

FURTHERMORE, be it ordained that the Secretary for the District and the
Executive Director are hereby authorized and directed to prepare and place on file the
revised Comprehensive Administration & Policy Manual in accordance with this
ordinance.
PASSED AND APPROVED by the President and Board of Trustees of the McHenry County Conservation District the 25th day of August, 2020.

AYES: 10
NAYS: 0
ABSENT: 0
ABSTAIN: 0

Vacant 1

APPROVED: __________________________
JOHN HENNING, PRESIDENT
BOARD OF TRUSTEES

ATTEST: __________________________
CAROLYNN CAMPBELL, SECRETARY
BOARD OF TRUSTEES
2.04.06 Remote Participation
In accordance with the provisions of the Open Meetings Act (5 ILCS 120/07), a member of the Board of Trustees of the McHenry County Conservation District may attend a Board Meeting by video or audio conference, or other means of remote participation using electronic contemporaneous interactive communication provided:

1. A quorum of the Board of Trustees is physically present for the meeting.
2. Any member who desires to attend a meeting by remote electronic participation has given the Executive Director at least four (4) hours advance notice that they are unable to physically attend the meeting due to a (a) personal illness; (b) employment purpose or the business of the District Board; or (c) a family or other emergency.
3. Members should use all means necessary to be physically present for all meetings.
4. The District Board may revoke the right to attend a meeting by remote electronic participation if a member is abusing the remote participation policy or if the costs to the District for participating remotely were unreasonable.
5. When a member is attending by remote electronic participation, the Board Secretary shall, upon taking the roll, announce to the public that the member notified the District Board in accordance with this policy, and that the member has asked to attend by remote participation. A member of the Board of Trustees physically present may move to allow the remote participation, followed by a second, and approved by two-thirds of the members of the Board of Trustees physically present at the meeting, then the request by the member to attend the meeting electronically shall be deemed approved by the Board of Trustees and the presiding officer shall declare the requesting member electronically present. After such declaration by the presiding officer, the question of a member’s electronic attendance may not be reconsidered.
6. Any member attending electronically shall be considered an off-site attendee and counted as present electronically for that meeting. If the member is allowed to attend, the minutes shall reflect that the member or members were attending by remote electronic participation.
7. The electronic equipment used for remote participation shall be of such quality that the members present and the public shall be able to hear the comments of the member participating.
8. The member attending by remote electronic participation shall have the same rights to participate in discussions and vote as if the member was physically present. A member attending electronically may leave a meeting and return as in the case of any member provided the member attending electronically shall announce his or her leaving and returning.
9. If the member is able to provide notice in advance of the meeting, prior to completion of the agenda, the agenda shall note that a member has requested remote electronic participation and the basis for missing the meeting due to (a) personal illness; (b) employment purpose or the business of the District Board; (c) a family or other emergency.

In accordance with the amendments to the Illinois Open Meetings Act expanding options for remote participation (5 ILCS 120/7(e) – PA 101-0640), a public body may conduct open or closed meetings via audio or video conference, without the physical presence of a quorum, during a public health disaster as long as the following conditions are met:

1. The Governor or the Director of the Illinois Department of Public Health has issued a disaster declaration related to public health concerns and all or part of the public body is covered by the disaster area as defined in Section 4 of the Illinois Emergency Management Agency Act.
2. The President of the Board determines that an in-person meeting or a meeting conducted under the Open Meetings Act would not be practical or prudent because of the disaster.
3. All members participating must be verified and able to hear one another and able to hear all
discussion and testimony during the meeting.

4. For meetings open to the public, all members of the public physically present at the regular
meeting location must be able to hear all discussion and votes of the members of the Board. If
attendance at the regular meeting location is not feasible because of the disaster, the District
will make alternative arrangements for the meeting to allow any interested member of the
public to hear all discussion and roll call votes contemporaneously with the meeting.

5. At least one member of the Board, the Corporate Attorney, or the Executive Director is physically
present at the regular meeting location, unless it would be unfeasible due to the disaster.

6. All votes must be conducted by roll call.

7. Except in the event of a bona fide emergency, 48 hours’ notice of the meeting will be posted on
the District’s website and provided pursuant to Section 2.02(a) of the Open Meetings Act.

8. The open meeting will be recorded as an audio or video recording and this verbatim record must
be retained for at least 18 months.

2.04.08 Storage and Disposal of Meeting Recordings

The Illinois Open Meetings Act (5 ILCS 120 et seq.) requires that “all public bodies keep written minutes
of all their open meetings and a verbatim record of all their closed meetings in the form of an audio or
video recording (5 ILCS 120/2.06).” Under the provisions of Section 7(e) related to a public health
disaster declaration, a verbatim record of the open meetings will be made (5 ILCS 120/7(e)). The
approved minutes of a Public Meeting are the official record of the meeting (5 ILCS 120/2.06).

A. Open Meeting

There is no requirement under the Open Meetings Act (5 ILCS 120) for the District to make verbatim
recordings of open public meetings in the form of an audio or video recording.

A recording of Public Meetings of the District in the form of an audio or video recording may be made
by a member of the public pursuant Section 2.05 of the Open Meetings Act (5 ILCS 120/2.05). The
District may create a verbatim record of a meeting, or portion of a meeting for any reason.

Each recording of an Open Meeting shall be placed in an envelope and locked in a fire-retardant
receptacle. Each recording will include the date, place, and time of the meeting. All recordings shall be
maintained at the District’s Administrative offices and shall not be removed unless scheduled for
destruction.

The recording of a public meeting may be placed on the District’s official website for a period of 30 days
or until the official minutes of that meeting have been approved by the board and may stay posted
longer at the discretion of the Executive Director and as space allows.

B. Executive Session

A verbatim record of all District closed meetings, including closed meetings of all District advisory
committees, committees, or sub-committees, and open meetings held under the public health
emergency status in the form of an audio or video recording will be made pursuant Section 2.06 of the
Open Meetings Act (5 ILCS 120/2.06) P.A.).

The recordings can be destroyed without approval of a records commission or State Archivist no less
than 18 months after completion of the meeting recorded after:
1. The public body approves the destruction of a particular recording; and
2. The public body approves minutes of the closed meeting that meet the written minutes requirement of the Act.
   a. The date, time and place of the meeting;
   b. A record of Board members in attendance; and
   c. A summary of discussion on all matters proposed, deliberated, or decided, and a record of any votes taken.

Each recording shall be placed in a sealed envelope and locked in a fire-retardant receptacle. Each recording of a closed meeting will be labeled and include:
   a. A statement of the date, place, times of beginning and ending of the closed session; and
   b. A statement of the purpose and basis for the meeting.

All recordings shall be maintained at the District’s Administrative offices and shall not be removed unless court ordered as described below, or for review by the Board of Trustees at a regular or Special Call meeting of the Board of Trustees.

In the event a Trustee or duly appointed official filling a vacancy in the public body may access the verbatim records or minutes closed to the public in the public body’s main office in the presence of a records secretary, an administrative official of the public body, or any elected official of the public body.

If the Executive Director requests to review a recording, the Executive Director must submit the request in writing to the District’s Board of Trustees, stating the reason for such a review. Upon majority approval by the Board, the Executive Director shall review the tape in the presence of the Board at a regular or called meeting. No verbatim recordings shall be recorded or removed from the public body’s main office or official storage location, except by vote of the public body or a court order.

Unless the public body has made a determination that the verbatim recording no longer requires confidential treatment or otherwise consents to disclosure, the verbatim record of a meeting closed to the public shall not be open for public inspection or subject to discovery in any administrative proceeding other than one brought to enforce this Act. In the case of a civil action brought to enforce this Act, the court may conduct an examination of the verbatim record as it finds appropriate in order to determine whether there has been a violation of this Act. In the case of a criminal proceeding, the court may conduct an examination in order to determine what portions, if any, must be made available to the parties for use as evidence in the prosecution.

4.01 Records Retention – Public Access (Existing Policy – No Change)

The Board of Trustees recognizes the necessity to keep adequate and appropriate District records in order to fulfill legal requirements and develop and maintain the proper administrative functions.

The Executive Director shall oversee the development and maintenance of an appropriate records management system that: 1) meets all of the requirements of the federal and state statutes; 2) provides data required for annual audit; 3) provides improved accessibility of information regardless of the media containing that information; 4) protects vital public records; 5) provides public access, to the extent allowable by law, to information in public records; and 6) meets the needs of the District in a timely manner.