

From: David A. Derbin <DDerbin@lancaster.ne.gov>
Sent: Tuesday, March 31, 2020 1:04 PM
To: Kerry P. Eagan <KEagan@lancaster.ne.gov>
Subject: public participation at meetings

Hi Kerry,

I received your voicemail regarding the Board's proposed elimination of public participation at its meetings. Generally, the Open Meetings Act ("Act") requires public attendance and speaking by the public at all public meetings, unless otherwise provided by the Nebraska Constitution, federal statutes, or the Act. *See* Neb. Rev. Stat. § 84-1408.

The Act provides a limited exception to speaking: "A body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings." Neb. Rev. Stat. § 84-1412.

The Act does not provide an exception for attendance. Even when video or telephone meetings are allowed, the Act requires public attendance and availability for the attending public to inspect the documents to be discussed at the public meeting. *See* Neb. Rev. Stat. § 84-1411(2)(b) and (c).

Given the foregoing, the Board is not required to allow the public to speak at each meeting. However, the Board is required to allow the public to attend each meeting, including allowing the public to inspect the documents to be discussed at the meeting.

In addition, I also would advise that: (i) the Board's Open Meetings Policy be amended on Thursday to provide for suspension of public participation during a declared emergency upon action by the Board; (ii) the Board take such action on Thursday following adoption of the new policy; and (iii) the agenda template be revised to reflect any action taken in this respect by the Board.

I will follow up with a phone call.

Thanks!

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