

MINUTES

ARIZONA COUNTY CLERKS ASSOCIATION (ACCA)

September 21, 22 & 23, 2005

CLERK'S SUMMER RETREAT – GREER LODGE

Host Counties: Apache and Gila

Present:

Fran McCarroll, President, Maricopa County
Melinda Meek, Treasurer, Santa Cruz County
Donna Hale, Vice President/Secretary, La Paz County
Beth Bond, Apache County
Nadine Parkhurst, Cochise County
Gussie Motter, Cochise County
Sherry Cornforth, Coconino County
Marian Sheppard, Gila County
Barbara Bracken, Mohave County
Jimmy Jayne, Navajo County
Darlene Fraley, Navajo County
Lori Godoshian, Pima County
Robin Brigode, Pima County

Welcome, Introductions and Announcements

Fran welcomed everyone, particularly new attendees, Jimmy Jayne and Darlene Fraley from Navajo County and Sherry Cornforth from Coconino County.

Fran talked about the history of the Clerks' Association and Clerkdom. Appreciation was given to Judy Jones, who was a catalyst in bringing this association together as she wanted to learn more about clerk's duties.

Sherry Cornforth indicated that she started with the Clerk of the Court but has been five years with the Board of Supervisor's office. She is currently Deputy Clerk and is responsible for minutes, agendas, etc.

Darlene Fraley has been on the job for three months as Deputy Clerk and who's previous work history was in school government.

Appreciation was expressed to Beth and Marian for hosting and finding such a beautiful location.

Agendas

Fran noted that during past retreats, they talked about holding classes on various topics relating to County Clerks and wanted to build a curriculum around this. She explained that this meeting will focus on an agenda workshop.

Fran distributed notebooks full of pertinent information relating to: Agenda routing, approvals, reviewer responsibility, compiling an agenda, the Open Meeting Law, item contents and timelines/deadlines. She noted that this is Maricopa County's information and, although it does not make it the standard, it is what information she had readily available.

She felt this would be a resource, much like Bev Staddon's special district information (Yavapai County). She felt that if they combined their resources, they could put together a manual.

The notebook started with the Bylaws of ACCA. Then specifics of the Open Meeting Law (OML), as it pertains to the specific instructions on notices and agenda content.

It was noted as part of the information provided, that the Clerk shall distribute open meeting law materials prepared and approved by the AG to persons elected or appointed to a public body prior to the day that person takes office [ARS §38-431.01(F)]. This meant all special districts. Also discussed was the newspaper articles relating to several school districts who did not comply with the OML and how individuals were fined when found to be in violation.

Attachments of the OML information included: Chapter 7 of the AG's handbook; the AG's opinion regarding email and the OML; sample Executive Session request form (lists options for the various statutory authority for placement on an Executive Session agenda); and a sample disclosure statement (where all posting notices of meetings will be posted).

Also included in the notebook was Fran's standard format for the agenda, tips for agenda related forms, and a sample formal meeting agenda. She also included her Agenda Information Form (AIF), instructions for completing the AIF and the responsibility of signers.

Discussion ensued as to how some County Attorneys' feel that if there is a quorum of the Board, an attorney must be present, in person, telephonically or by video conferencing.

Fran noted that it is her attorney's opinion that if there is a violation of the OML and you, as Clerk, facilitate that meeting, Clerks' also have a chance of being fined.

Discussion about County Boards, Commissions and Committees ensued. It was noted that an Oath of Office must be sent to those boards, such as Planning and Zoning Commission and the Board of Adjustment. For school districts, the oaths are sent to the School Superintendent for distribution.

Conflict of Interest was discussed as well with forms to be filed with the Clerk of the Board. Fran noted that the Board members file forms with her that depict the conflicts of interest. During discussion, it was noted that some Board members leave the room when discussion is taking place on a conflict item, and others go into the audience.

Lori noted that her deputy attorney indicated that because it is an open meeting, the Board members do not have to leave the room.

It was noted that State Auditors always check the Conflict of Interest file.

At events the Board is attending but will not be taking action, the blurb, "No Board Action will be taken at this event", should be placed on the posting notice.

Discussion took place over definitions of a "meeting" and the various opinions on what constitutes a meeting such as social events where no action is taken.

Fran has a spreadsheet for all meetings and what type of meeting it is (formal, informal, Executive), when agenda items are due to the Clerk, staffing meetings, approval dates and the time for printing and distribution of the agenda.

Fran recommends that the Disclosure Statement (kept in the Clerk's Office) list only one official public place for posting meetings.

Fran also explained ARS §11-214 where a special meeting is called, at least five days' notice must be given to any member of the Board that does not join in on the call. She noted that, this only applies to the Board of Supervisors. She noted that this is not part of the OML, but affects it.

Lori indicated that in Pima, if a special meeting is held within ten days, they don't count weekends; however, if it is over ten days, they do count weekends. They have Rules of Procedures and Lori will email it to everyone.

Fran briefly discussed employee evaluations held in Executive Session and how it is a violation of the OML to talk about policies during Executive Session, those discussions must be held in a public meeting. Executive Sessions are to talk about the person only.

With regard to emergencies, in Maricopa it is in the Emergency Plan that the Chairman can declare an emergency. Statutes requires the Counties to undeclare a state of emergency when it is over.

Various agenda templates are used in Maricopa County, depending on the type of meeting. She noted that the County Seal has to be on file at the Secretary of State. If the Board changes it, and adopts a new one, it must be sent to the SOS.

When the Board meets as another board, floodplain, library, etc., she keeps the minutes separately and they don't have to be published.

Lori and Robin noted that Pima County formally adopts, every six months, on consent agenda, a calendar for the rest of the year.

Discussion ensued about minutes publication as well as warrant information over \$1,000.

Packaged programs for "agenda central" were discussed as well. Nadine noted that any County can purchase her "program" for \$5,000. She noted that it is made for them and may not be appropriate for all counties. Santa Cruz is purchasing Nadine's program.

Jimmy talked about how their agenda reflects specific times for agenda items. He asked if anyone else used times on their agenda and it did not appear anyone else did. He expressed concern about agenda items not being heard at the time specifically listed on the agenda and possible ramifications

Stale Dated Warrants, ARS §11-644. If warrants are not cashed within the statutory time frame. Fran noted that the recipient has one year to ask for the reissuance of a check, if it is more than that time, the County cannot do it.

Hearing Officer on Code Enforcement issues was discussed and it was asked whether those who appeal appear before the Board of Supervisors.

Lori noted that in Pima County, they go before the Zoning Enforcement Board of Appeals (Board of Supervisors), whereby separate minutes are done and once the individual receives a certified decision of the Board of Supervisors, they can then appeal to Superior Court.

Liquor Licenses

Marian talked about her experience with an Application for Agent Change. No one else seemed to have dealt with this and she said the process had inherent flaws in the law. The Liquor Board had no guidelines on how to handle this matter internally.

It appears that the purpose of this application was initiated by bigger municipalities who conduct background checks on the applicants. What was taking place, in reality, was the transfer of ownership without the municipality knowing about it. The Liquor Board has stated that they do not want the counties sending any written recommendation regarding an agent change unless they are protesting it.

Marian noted that if a county does not do background checks, "what do we do" with the application – post it at the location and notice that the Board will review the application. She was posting it 10 days. There doesn't appear to be a legal standard for posting this type of application.

With regard to protesting liquor licenses before the State Board, Donna indicated that she had to protest a liquor license recently but the County did not prevail. She noted that the reason for protesting stemmed from public outcry in a supervisor's district. An attorney for the City of Phoenix was present at the hearing and after the hearing, gave her a list of criteria that may be used in determining whether the best interest of the community will be substantially served by the issuance or transfer of a liquor license. Some of the items listed included: number and series of licenses in close proximity, residential and commercial population density in close proximity, effect on vehicular traffic, etc.

Retention Schedules

Leah from Apache County talked about retention schedules. She indicated that Lisa Maxwell from the State Department of Library, Archives & Public Records, comes to the Counties if they request her to do so to talk about records management.

Public records were discussed at length, which included discussions about emails, items from attorneys, tickets (used in one area to substantiate racial profiling case).

It was noted that the State has to approve anything being destroyed and how microfilm is the only way for storage to be considered permanent record.

Counties distributed retention schedules for their Counties. It appeared that Maricopa and Pima were the ones who had customized schedules.

With regard to the AG's opinion on emails, it was noted that it is an AG opinion, not law, but is a good guideline to follow. If a County does something contrary to the AG opinion, and it is challenged, it would end up in court and a final decision could be made to make it law.

Social Security Numbers on Forms

Fran distributed an email from her Deputy Attorney regarding Social Security Numbers on forms. It stated: You can request/require the SSN only if: 1) you inform the person why it is needed (if it is for the purpose of monitoring claims for fraud, that should be okay); 2) you state whether it is voluntary or mandatory; and 3) you state how the information is to be used. If you choose to continue to request SSNs on forms, you need to add language in the "fine print" to satisfy these requirements of federal law.

Donations

Fran indicated that all donations are officially accepted by the Board of Supervisors (even Animal Control donations).

Next Retreat

Fran stated that Sheri Cluff from Pinal County indicated that she and Karon would host the next retreat in February 2006.

Friday, September 23, 2005

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Members distributed advertising contracts.

Treasurer Melinda distributed the Treasurer's Report.

Motion by Nadine Parkhurst, second by Lori Godoshian, to pay any conference excess expenditures out of the ACCA account rather than having Gila and Apache Counties subsidize the conference. Passed unanimously.

The overage was estimated to be approximately \$2,000 - \$2,500.

Fran distributed Certificates of Completion signed by the three officers of the Association to those attendees of the Agenda Workshop. Thank you, President Fran!

Donna J. Hale
Vice President/Secretary
1/09/06