



The Nevada County Commissioner Handbook

2020 Edition

Nevada Association of Counties
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Carson City, NV 89703

www.nvnaco.org

THE NEVADA COUNTY COMMISSIONER HANDBOOK



A Guide for County Commissioners

November 2020 Edition

Updated & Produced by
Nevada Association of Counties (NACO)

**NACO recognizes the 2019/2020 Nevada Association of Counties
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November 16, 2020

Dear Commissioners:

This Handbook was written to introduce the organization of county government and the responsibilities of those elected to serve as county commissioners. The Nevada Association of Counties (NACO) was founded in 1924 and is a nonpartisan, nonprofit corporation whose membership is comprised of all seventeen Nevada counties. Representatives from each of Nevada's county commissions make up our Board of Directors. NACO's mission is to encourage county government to provide services that will maximize efficiency and foster public trust in local government.

This County Commissioner Handbook has been prepared as a reference guide on a broad range of topics and duties related to the office of County Commissioner. This handbook is not intended to be all inclusive, rather, it should be viewed and utilized as an introductory resource for all commissioners to be better prepared to lead. This handbook is also not to be considered legal advice. The Nevada Revised Statutes should be referred to, and legal counsel should be sought when and where appropriate. Accompanying this handbook is a list of [web-based resources](#) that will assist you now, and throughout your career, as a county commissioner. The resources include a comprehensive calendar of statutorily mandated actions that counties must make throughout the year, guidance on adhering to Nevada's Open Meeting Law, information on conducting an effective meeting and other important resources for newly elected officials.

We hope you find these materials useful and informative. The Nevada Association of Counties congratulates and welcomes each new member to the office of County Commissioner. Please contact myself or NACO staff at any time for more detailed information – we are here as a resource for you.

Dagny Stapleton
Executive Director
Nevada Association of Counties

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Introduction

By their very nature counties are complex organizations and county commissioners play numerous and varied roles. At different times, and depending on the issues before you, your board will oversee the executive, legislative, and judicial branches of county government. Your commission oversees budgets and allocates funding for dozens of separate and distinct business functions as well as the offices of the seven or more other county elected officials such as assessor, county clerk, treasurer, public administrator, and sheriff. Because they touch and influence all three branches of government, boards of county commissioners constitute the most powerful administrative body in county government. They make laws through the adoption of ordinances, carry out those laws by directing staff, and evaluate and apply laws by making quasi-judicial decisions during planning appeals, show-cause hearings, and other similar ministerial issues. These diverse responsibilities affect many very important aspects of the lives of Nevada's citizens.

Your job as county commissioner is necessarily complex, and to be an effective leader you must not only understand each level of your responsibilities, but also understand the limit to your powers. To that end this Handbook, (along with the web based resources, including a calendar laying out the statutorily mandated actions counties must carry out each year), have been prepared to introduce you to subjects such as county operations and finance, commissioner responsibilities and meeting protocol, local government finance, Nevada ethics laws, Dillon's Rule, and how the Nevada State Legislature works.

For other resources and sources of information on county government, please visit www.nvnaco.org, or contact the Nevada Association of Counties (NACO) at info@nvnaco.org, or (775) 883-7863.

Dillon's Rule and the Authority of Counties in Nevada

In 1868, Iowa Supreme Court Justice John Forrest Dillon, an authority on local government, formulated a principle named in his honor. Justice Dillon did not subscribe to the view held by many that local governments possessed inherent powers, whether they were spelled out in the state constitution or not. Instead, he insisted that local governments are entirely subject to the will of the state legislature. As a result, Dillon said in *Merriam v. Moody's Executors*, county governments have only three types of powers:

- Those expressly granted to them by the state legislature;
- Those necessary and incidental to the execution of the express powers; and
- Those absolutely necessary to the discharge of the express powers or as Dillon put it, "not simply convenient, but indispensable."

"Any fair, reasonable, substantial doubt concerning the existence of power is resolved by the courts against the corporation, and the power is denied," he added. "Dillon's Rule" means that counties had to have specific, enabling state legislation to authorize whatever functions they might fulfill at the local level, and, to respond to the changing needs of their citizens, they had to petition the legislature for additional authority, which might or might not be granted. By the turn of the 20th century, Dillon's Rule was firmly established as a foundational concept in county governance. The opposite of Dillon's Rule is "Home Rule" – where local governments have the authority to govern themselves as they choose on local matters. Though there are some States that *have* wholly granted this autonomy to their local governments, in most States counties have a mix of Dillon's Rule and Home Rule. So where does Nevada fit into this Dillon's Rule/Home Rule mix?

With one important exception, Nevada is a Dillon's Rule State, meaning that unless the power to do something has been expressly granted to the county by the state legislature through the adoption of a statute, they do not possess it. And this rule is at the foundation of every decision that Nevada's county commissions make (see also *General and Implied Powers and Duties of County Commissioners*, page 14). The exception to this rule was created during the 2015 session of the Nevada State Legislature. During this session, NACO and its members successfully argued that counties in Nevada should have a limited form of home rule. As a result, [Senate Bill 29](#) was passed into law and grants counties limited *functional* home rule, that is, the authority to pass ordinances and act upon matters that are strictly administrative in nature and deemed "matters of local concern". Now, for example, if Nevada State law is silent on a particular health or safety provision, a county commission could pass an ordinance to address the issue, if it does not affect other jurisdictions. It is important to note that Nevada's Counties do not have "fiscal home rule", which means that counties can only decide to raise a tax if the State has granted them that authority. NACO's white paper on Limited Functional Home Rule can be found at www.nvnaco.org/publications.

Nevada Laws Governing Counties

The law underlying county government in Nevada stems from three principal sources: The Constitution of the State of Nevada, Nevada Revised Statutes (NRS) and case law developed by Nevada and federal courts.

The principal statutory provisions concerning county boards of commissioners are contained in NRS Chapter 244. Other important activities of county government are treated separately in the Nevada Revised Statutes and are clearly indexed.

Case law developed by Nevada and federal courts defines and fills in, so to speak, statutory provisions when disputed interpretations arise.

The Role of Counties

There are 17 counties in Nevada ranging in population from over two million residents (Clark County) to less than 1,000 residents (Esmeralda County). Historically, the role of counties has been to serve as an administrative arm of the State—maintaining records; providing courts, law enforcement, and fire protection; reviewing land use and development; ensuring building safety; providing human services to those in need, including some public health functions and services to the indigent; assessing property; collecting taxes; building roads and conducting elections. Counties still perform these functions and many others through their elected officials which may include a board of county commissioners or supervisors, sheriff, recorder, treasurer, clerk, district attorney, assessor, public administrator, and auditor. They are also carried out through appointed staff such as the county manager or administrator, comptroller, budget or finance director, health and human services director, human resources director, public works director and emergency management director.

Nevada's Code of Ethical Standards

“A public office is a public trust and shall be held for the sole benefit of the people”. A code of ethical standards has been established to govern the conduct of public officers and employees. The complete Nevada Ethics in Government Law can be found in Chapter 281A of the Nevada Revised Statutes. Additionally, the *Ethics in Government Manual for Nevada Public Officers and Public Employees* can be found on the list of resources included in this handbook.

NRS 281A(1) requires that on or before the date on which you swear or affirm your oath of office, you must be “informed” of your statutory ethical standards and your duty to file an acknowledgment of those standards in accordance with state law. One of the best ways to fulfill your statutory obligation to become familiar with Nevada’s Code of Ethical

Standards is by visiting the Nevada Commission on Ethics webpage at: <http://ethics.nv.gov/>. It is critical that you know and understand how to identify prohibited conduct, recognize a conflict of interest, fully disclose a conflict of interest, determine whether to abstain from participating in a matter before your board, and file required documents with the Nevada Commission on Ethics. Please familiarize yourself with NRS Chapter 281(A), "Ethics in Government". Failure to recognize and avoid these dangers could result in a public complaint being filed against you. Civil or criminal penalties or sanctions could be imposed if you are found guilty of a willful violation. And, most importantly, failure to comply with the ethical standards for public officials is a violation of the trust of those who elected you.

Nevada's Open Meeting Law

Per NRS 241.010, *all public bodies exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.* While there is no statutory requirement that you complete Nevada Open Meeting Law (OML) training, it is advisable that you do so before you participate in your first meeting. One of the best ways to complete this training is by enrolling in a POOL/PACT e-learning course if your county is a member of that organization. You may contact any member of the POOL/PACT staff for more information or refer to their website at poolpact.com. If your county is not a member of POOL/PACT, you can download a copy of the Open Meeting Law Manual at ag.nv.gov.

During the 2019 session of the Nevada Legislature, significant reforms were made to Nevada's OML. NACO encourages all county commissioners to review the updates to the law, as failure to follow the OML could result in a public ethics complaint being filed against you. There are also criminal and civil penalties for violating the Open Meeting Law if you are found guilty.

Your Role as a Policy-Maker

As a county commissioner, various Nevada Revised Statutes authorize and require you to set policy for the county you represent. Policy-making means "defining high-level goals and long-range outcomes". Specifically, you will choose the direction you want to lead the organization, the methods and means by which various elected and appointed officials will achieve the outcomes you and your colleagues determine would be the most beneficial, and guide the decision-making process that leads to those outcomes.

Decisions you make can have far-reaching impacts on the lives of the people you represent and because of this, citizens have every right to expect you to have a positive and steady influence over the direction of county government. This is also why decisions are only made during public meetings and why Nevada's counties are subject to the Open

Meeting Law – a law that describes how meetings should be noticed as well as conducted so participation from the public is protected and ensured.

Your Role as an Executive

Not only does your board set policy, they are also responsible for its implementation. Commissioners are the chief executives of the county organization, but that role will vary greatly from county to county. Sometimes, a commissioner with tenure can become skilled in executive duties and will naturally evolve into an unofficial county executive if one has not already been appointed. Most commonly, though, executive duties are delegated to the county administrator or county manager. Most, but not all, counties in Nevada have a staff person assigned or appointed to assist them with their executive duties.

In the event a county does not have a county manager or administrator, the board of commissioners typically decides which commissioner will act as the point of contact for which department manager (other elected officials, such as the sheriff, act independently and report to the voters, although county policies do apply to their employees). Although these commissioners can provide general direction on day-to-day issues, decisions affecting the department manager's employment such as promotion, demotion, pay increases and decreases, or termination, are decisions made by the board of commissioners as a whole during an open public meeting after the specific action has been properly placed on an agenda for action.

Your Role as a Representative

In addition to serving on the county commission, commissioners may be appointed to represent their county on other boards and committees. These appointments can be made annually by the chair of your board or by other governmental entities. You may be appointed to a board that oversees specific county infrastructure or issues such as the Regional Transportation Commission or Senior Nutrition. There are also statewide committees or commissions designed to include representation from counties, such as the Commission on Aging, the State Land Use Planning Advisory Committee, the Board for the Fund for Accident Care to Indigent Persons, the Committee on Local Government Finance, or the newly created Board of Indigent Defense Services, which oversees public defenders across the state. Many of these boards and committees require the participation of a commissioner, a county designee, or a representative nominated by NACO. Representing the commission, the county, or all counties, on these boards is an important part of a commissioner's duties and not only helps develop your skills as a leader, but also increases your knowledge of county and state government and widens the network of individuals who can help you reach your objectives. The following is a list of possible commissioner committee/board assignments (note that at

the County Level, not all counties will have all of these boards and at the State Level, several of them are membership and dues-based):

County and Regional Level:

- Senior Nutrition Board
- Fire District Board
- Regional Transportation Commission
- Insurance Advisory Committee
- Tourism Board
- Wildlife Board
- Water Authority
- Park and Recreation Board
- Health District Board
- Hospital District Board
- Board of Road Commissioners
- Airport Advisory Board
- Public Lands Advisory Board
- Local Convention and Visitor's Authority

State Level:

- Nevada Association of Counties
- Nevada Workforce Investment Board
- Board for the Fund for Hospital Care to Indigent Persons
- State Land Use Planning Advisory Committee
- NevadaWorks
- Southern Nevada Workforce Investment Board
- The Nevada Commission on Nuclear Projects
- Extension Advisory Council
- Local Economic Development Authority
- POOL/PACT

Besides being the captains of your county government ship, you will also be called on at times to represent your county through active engagement with members of the Nevada Legislature, Nevada's federal delegation, various other state and federal agencies, and the media. These are important opportunities that allow you to educate lawmakers and others on the important role of county government by giving them real-life examples of the important services that counties provide.

Other opportunities can take many forms, including:

- Accepting a Governor's appointment to various commissions and boards (*Note: NRS 321.740(1), adopted during the 2013 Session, allows for the gubernatorial appointment of any member of the State Land Use Advisory Council to one other board, commission, or similar body. Previously, individuals could accept only one appointment.*);
- Granting media interviews;
- Offering testimony on bills during legislative sessions;
- Meeting with Nevada's congressional representatives;
- Applying for federal appointments to BLM and USFS resource advisory councils;
- Appointment to the National Association of Counties Board or Steering Committees
- Volunteering for county liaison appointments to various boards and functions as listed above.

Legislative and Quasi-Judicial Functions

As stated in the Introduction, boards of county commissioners act as the executive, legislative and judicial branches of county government. While boards generally have broad executive powers their legislative, or law-making, powers are limited to what has been granted by the Nevada State Legislature ("Dillon's Rule"). When your board is called on to hear a public nuisance complaint, the appeal of a planning item, or the granting or revocation of special use permits and licenses (only a few examples), you are sitting in a quasi-judicial capacity. What this means is you will formally hear the facts of a case and render a decision, similar to what a judge would do in court. In some cases, witnesses may be sworn.

When a quasi-judicial decision must be made, due process, which simply means ensuring a constitutionally fair proceeding, requires the board to follow certain rules, including:

- Providing advance notice to the public and a reasonable opportunity for any interested person(s) to present evidence and arguments at the hearing;
- Making an official record of the proceeding, including information the board considered when making their decision. This is important, because if the decision is appealed to the District Court (when applicable), the court will look to see if evidence in the record supports the board's decision;
- Not considering any information received outside the record (what is presented during the hearing). This is called "ex parte communication" and is so everyone has the same opportunity to hear both the evidence presented and the arguments for or against that evidence. Ex parte communications also

include written and verbal communications you received from any source prior to the hearing. If the written or verbal communication was unavoidable, it may be cured by publicly disclosing the substance of the communication and placing it into the record. Be sure to let your District Attorney or county legal counsel know of the communication prior to the hearing so s/he can guide you as you disclose.

When participating in or conducting a quasi-judicial proceeding, it is critical to always be aware of the fact that when you question witnesses or offer comments you are creating a legal record you may have to defend under oath if the decision of the board results in an appeal to district court or a lawsuit. Be sure you understand the issues and merits of the issue before you, and if you have specific questions or concerns, consult with your legal counsel well before the hearing.

Goal-Setting and Long-Range Planning

It has been said that policy-making is more of an art than a science. Simply put, policy making is nothing more than describing what you want to accomplish and then developing a plan to get there. First, if your county has a mission statement, keep it in mind as you set goals and develop long-range plans and always consider whether the decisions you make are helping to fulfill your county's mission. This should be at the basis of your process and will help you to "see the forest for the trees". Since one of staff's primary functions is to carry out long-range plans made by the board, their input will be important as you move forward. Your staff possesses the technical and professional skills you will need to help frame your goals, keep the process on track, and develop reasonable priorities and timelines. They also may have important history and institutional knowledge on specific issues and programs. Finally, keeping the constituents you represent informed is important as well - you can keep the public involved by recognizing their role as stakeholders and offering them opportunities to comment publicly and provide input during the process.

Elections, Terms of Office, and Quorums

The term of office for county commissioners is four years. Counties with a population of less than 100,000 are required by NRS 244.010 to have a minimum of three county commissioners. The board of county commissioners may, by ordinance, provide for an additional two commissioners if approved by a majority of members of the registered voters of the county. Only a handful of counties in Nevada have three-commissioner boards; those are: Churchill, Esmeralda, Eureka, Mineral, Pershing, and Storey. A majority (quorum) of commissioners is required to transact county business. For boards with three commissioners, a quorum is always two commissioners. Therefore, a motion passes if at least two commissioners vote in the affirmative. If only two of the three commissioners are present during a meeting, both commissioners present must vote in favor of the motion, otherwise the motion fails. A quorum will always be a quorum of the entire board, not a quorum of the commissioners present.

Counties with a population of 100,000 or more but less than 700,000 (Washoe County) are required by NRS 244.014 to have a minimum of five commissioners elected from five commission districts. A majority of the commissioners (three) is required for a quorum to transact business. For boards with five county commissioners, a quorum is always three commissioners. Therefore, a motion can only pass if three commissioners vote in the affirmative. If only three of the five commissioners are present during a meeting, all three commissioners present must vote in favor of the motion, otherwise the motion fails. For Boards with five commissioners a quorum will always be a quorum of the entire board, not a quorum of the commissioners present.

Counties with a population of 700,000 or more (Clark County) are required by NRS 244.016 to have seven commissioners elected from seven commission districts. These commission districts must each be as nearly equal in population as possible to the others and must be as contiguous and as compact as possible. For boards with seven county commissioners, a quorum is always four commissioners. Therefore, a motion only passes if four commissioners vote in the affirmative. If only four of the seven commissioners are present during a meeting, all four commissioners present must vote in favor of the motion, otherwise the motion fails. A quorum will always be a quorum of the entire board, not a quorum of the commissioners present.

If an even number of commissioners is present due to an absence and a vote ends in a tie, NRS 244.060 requires that the vote be postponed to a subsequent meeting.

Vacancies and Removal

A vacancy occurs as the result of any one of the following events before the expiration of the term of office (this applies to all local elected officials, not just county commissioners, as defined in NRS 233.):

1. The death of the incumbent;
2. The resignation of the incumbent;
3. The removal of the incumbent, including through a public recall;
4. The incumbent ceasing to be an inhabitant of the county in which he was elected or appointed;
5. The incumbent's refusal or neglect to take the oath of office;
6. In the event a county officer is convicted and sentenced for misconduct, misfeasance, or malfeasance of office (as defined by NRS 233 and NRS 283.440), may be removed from office;
7. Should the officer appeal a judgment of removal to the Supreme Court, he shall be suspended from his office until such judgment is reversed. Pending the appeal, the office may be filled as in case of vacancy.

Except in Carson City due to the consolidation of city and county government, all county commissioner vacancies are filled by gubernatorial appointment. Appointees must reside in the commission district where the vacancy exists and must be a member of the same political party as the most recent holder of the vacant office. Appointees serve until a successor is elected at the next general election.

General and Implied Powers and Duties of County Commissioners

You have already learned that boards of county commissioners are administrative, policy-making and quasi-judicial bodies. While generally such boards have only those duties conferred by the state legislature, the courts have held that they have such implied powers as may be necessary to carry out their assigned functions. The board of county commissioners fills all vacancies in county offices other than county commissioners and district court judges. All powers of the county as a legal entity are exercised by the board of county commissioners.

The following general statutory powers are vested in boards of county commissioners and some are required by law (please confer with your county's legal counsel for more information or direction to the relevant Nevada Revised Statute). This list is not all-inclusive but is provided as an example of some of the many things that counties do.

1. To make orders concerning county property in conformity with any laws of the state;
2. To examine and settle and allow all accounts legally chargeable against the county;

3. To repair and build county buildings and where there are not such buildings to provide suitable quarters for county purposes;
4. To levy and apportion taxes, incur debt for construction of or repair of public buildings, roads and bridges when authorized by electoral vote;
5. To lay out, alter or discontinue any county road and to perform such other duties as may be required by laws relating to public roads;
6. To grant licenses and perform such other related duties as may be required by law;
7. To acquire land, contract for and maintain airports and landing strips and to lease the facilities;
8. To provide for county landfills;
9. To enter into contracts with municipalities for joint use and occupancy of public buildings;
10. To negotiate with the Extension College of UNR for cooperative extension services to be financed by a county tax levy of not less than 1 cent on each \$100 of taxable property but not more than 5 cents on each \$100 of the county tax rate;
11. To create the office of county manager or of administrative assistant to the commissioners, of a county budget officer or any other office as may be required for the efficient management of the county's business. The board shall have power to make appointments to such offices, to prescribe their duties, and to fix their compensation. Persons appointed to such offices shall serve at the pleasure of the commissioners;
12. To enter into cooperative agreements with the state fire warden for fire protection or Division of Forestry for forest management;
13. To require by ordinance licensing of dogs and provide for their control, violations of which will be penalized under the law;
14. To grant exclusive franchise for ambulance service;
15. To fix the salaries of deputy district attorneys;
16. To appoint members of fair and recreation boards;
17. To expend monies for the maintenance of drainage structures and flood control facilities;
18. To acquire, control, maintain or abolish cemeteries;
19. To convert, improve, equip, operate and maintain for public parking any spaces in a parking facility owned by the county which are in excess of the number of spaces required by the county for its officers and employees. The board may fix and charge reasonable fees for use of the public parking spaces;
20. To establish guidelines for the use of automobiles and other motor vehicles owned by the county;
21. To regulate and restrict the improvement of land and control the location and soundness of buildings in order to promote the health, safety, and general welfare of a community;

22. To create a master plan document upon which the physical development of the county is based;
23. To expend money for any purpose which will provide a substantial benefit to the inhabitants of the county;
24. To grant public money to private not-for-profit organizations for selected purposes, by resolution;
25. To create a department of public works devoted primarily to building and grounds facilities, engineering, buildings and safety, waterworks, sewers, sewage, garbage and refuse disposal facilities, public sanitation facilities, water treatment and purification, recreational facilities and streets and access roads and appoint the director of such department;
26. To exercise any of the powers in any unincorporated area within its county that a board of trustees of any general improvement district would be permitted to exercise;
27. To take care of and provide for the indigent of the county;
28. To take care of and provide for the legal defense of the indigent of the county;
29. To establish, equip and maintain limited medical facilities in outlying areas of their counties for outpatient and emergency care. Boards of county commissioners may provide for full-time or part-time staff for such facilities and may fix the charges for the medical and nursing care and medicine furnished by such facilities. They may purchase equipment, and maintain ambulances and ambulance services for the benefit of the residents and those falling sick or being injured in such outlying areas;
30. To institute a program of discussion for the realization of civil and equal rights of residents of a county;
31. To create by ordinance the office of county coroner, prescribe his qualifications and duties and make appointments to the office;
32. In each county having a population of 100,000 or more, the board of county commissioners may create the office of registrar of voters, prescribe the qualifications, duties and compensation of that office and make appointments to that office. The registrar of voters, upon appointment, assumes all of the powers and duties vested in and imposed upon the county clerk with respect to elections except completion and delivering certifications of election;
33. To rent, lease or otherwise acquire voting or counting devices in whatever manner will best serve local interests;
34. To establish by ordinance advisory boards for any purpose relating to the county about which the board desires study or advice;
35. To perform all such other acts and things as may be lawful and strictly necessary to the full discharge of the powers and jurisdictions conferred on the board;
36. To administer all oaths or affirmations necessary in discharging the duties of their office.

The County Commission as Planning Commission

In counties with populations less than 45,000 the county commission may also act as the planning commission. The planning commission is responsible for reviewing development projects to ensure compliance with the county's zoning code and master plan. The planning commission is also responsible for the development of the county's master plan, which is the long-term plan for the physical development of the county. The duties of the planning commission are outlined in Chapter 278 of Nevada Revised Statutes.

Meetings of the Board

Each board of county commissioners is required to meet monthly at the county seat or at a place not more than 10 miles from the county seat within the boundaries of the county.

The first meeting of the board in odd-numbered years must be held on the first Monday in January, but if the first Monday in January is a non-judicial day (Saturday or Sunday), the meeting must be held on the next judicial day. Generally, at the first meeting of the board of county commissioners, the board chooses its chairperson who presides over all meetings of the commissioners and selects a vice chairperson who shall preside in his or her absence (NRS 244.070). Additionally, the statute requires that the terms of office be fixed (set) at the time the chair and vice-chair are selected. It is permissible to set the term for chair and vice-chair for more than one year.

Ordinances and Resolutions and How They Differ

Boards of county commissioners have the authority to adopt ordinances and resolutions.

An ordinance is a local law. In Nevada they are adopted by a governing body (board of county commissioners, town board, or city council) and subsequently enforced by local law enforcement and district attorneys. A board of county commissioners will introduce a bill when amending or repealing an existing ordinance. Some state statutes require the exercise of county powers by first adopting an ordinance. As stated in NRS 244.095, "No ordinance shall be passed except by bill".

One of four actions can be taken when considering a bill:

- Adopt the bill as presented;
- Amend the bill as presented and adopt it;
- Reject the bill completely; or
- Continue the public hearing on the bill to a date and time certain to resolve outstanding issues or obtain additional information that may be included in the final draft.

Refer to NRS 244.095 through 244.115, inclusive, for more information on how a bill becomes an ordinance.

Resolutions are written statements made by a governing body that commonly deal with matters of a special or temporary nature. Resolutions are often used to persuade other legislative bodies (i.e. at the state or federal level) to adopt legislation that is beyond the powers of the local body. Resolutions are required at times to officially notify other governmental entities of board decisions. Resolutions seldom, if ever, contain penalties and are the most common form of legislation used by a governing body to deal with special matters not affecting the general public. While most resolutions are presented in writing, oral resolutions are permissible and are not a violation of Nevada's Open Meeting Law.

Ordinances and resolutions are "adopted" as opposed to being "approved". Your motion will state "I move to adopt" (or "amend and adopt", or "reject", as the case may be).

Making a Motion

A motion is a formal proposal made by a commissioner during an open public meeting for which an agenda has been posted, and requests that the board take action on an item on that agenda. To make a motion, simply say "I move that..." and then clearly describe the action you are proposing the board take in relation to the agenda item. It is important to state clearly and concisely the words of your motion. Each motion, and the subsequent action by the board, must be recorded in the minutes for that meeting. It is common to use minutes from past meetings to resolve differences related to the intent of the board on a specific issue.

So there is no question concerning the action being requested of the board, some counties ask the person requesting the action (department head, elected official, etc.) to provide a proposed motion in writing, in which case it would be included in a staff report or other materials provided with the agenda and could be referred to by the maker of the motion during the meeting. Discussion regarding a proposed motion can always take place following the motion and second, and prior to the vote. The chair can specifically ask for this discussion.

Seconding a Motion

When one commissioner has made a motion, it must be seconded before it can be considered by the board. If there is no second, the motion dies. To second a motion, simply say "Second". You do not have to be recognized by the chair before seconding a motion.

Stating the Motion

When a motion has been “moved” and “seconded”, the chair restates the motion by saying “It has been moved and seconded that...”. The chair repeats the exact words used by the maker of the motion and asks for discussion on the motion. After any discussion on the motion, the chair calls for the vote by asking “Those in favor of the motion” and “Those opposed to the motion”. The chair announces the result of the vote, indicating which side—for or against the motion—prevails.

Other Motions

Other commonly used motions include Motion to Table and Motion to Reconsider. For these and other parliamentary procedures, refer to *Robert’s Rules of Order Newly Revised*, which are included in this handbook.

Abstaining

According to NRS 241.0355, a public body that is required to be composed of elected officials only may not take action by vote unless at least a majority of all the members of the public body vote in favor of the action. Therefore, a public body may not count an abstention as a vote in favor of any action. Additionally, in a county whose population is 45,000 or more, the provisions of NRS 281A.420(5) (*Requirements of Disclosing Conflicts of Interest*) do not apply to the public body unless before abstaining from the vote, the member of the public body receives and discloses the opinion of the legal counsel that the abstention is required pursuant to the aforementioned statute. The opinion of the counsel must be in writing and specify the factual circumstances and analysis leading to counsel’s conclusion. To avoid any violations of this statute, please consult with your commission counsel prior to abstaining from voting.

Tie Votes

As stated previously, if an even number of commissioners is present due to an absence or a vacancy and a vote ends in a tie, NRS 244.060 requires that the vote be postponed to a subsequent meeting.

Legislative and Parliamentary Immunity

Although your comments during public meetings should always be circumspect and prudently diplomatic, NRS 241.0353 says that “Any statement which is made by a member of a public body during the course of a public meeting is absolutely privileged and does not impose liability for defamation or constitute a ground for recovery in any civil action.” It is also good to be aware that the same statute allows a witness who is testifying before the commission to publish defamatory matter as part of your public meeting, with the exception

that it is unlawful for them to knowingly misrepresent any fact when they're testifying. If you have specific questions, please consult with your commission counsel.

Board and Staff Responsibilities

It is important to remember as a commissioner you are authorized and required to set policy for the county. As stated previously, policy-making means defining high-level goals and long-range outcomes for county government. This includes choosing the direction, the ways, and the means to achieve your desired outcomes and guiding the decision-making process leading to those outcomes. You and your colleagues not only set policy, but you are also responsible for implementing policy through direction of staff during meetings. Appointed staff and other elected department heads provide direction and day-to-day supervision of employees – NOT individual commissioners unless your county has no administrative staff and those duties have been delegated to you by the chairman (see “*Your Role as an Executive*”, page 9). The following activity charts may help explain “who does what” regarding board and staff:

| LONG-RANGE PLANNING | RESPONSIBILITY |
|--|--|
| Direct the process of long-range planning including creation of county master plan | Board (collectively, not individually) |
| Provide input to long-range goals | Joint (board and staff) |
| Approve long-range goals | Board |
| Formulate annual objectives | Staff |
| Approve annual objectives | Board |
| Prepare performance reports on achievement of goals and objectives | Staff |
| Monitor achievement of goals and objectives | Joint |

| PERSONNEL | RESPONSIBILITY |
|--|-----------------------|
| Employ and direct county manager or chief executive, or county department heads | Board |
| Direct daily activities of work staff, including department managers and supervisors | Staff |
| Hire and discharge staff members (except for county manager) | Staff |
| Set budget that will determine staffing levels | Board |
| Settle personnel issues, administer discipline, perform employee annual reviews, recommend salary increases or decreases | Staff |

| COMMUNITY RELATIONS | RESPONSIBILITY |
|--|-----------------------|
| Represent organization to citizens, potential developers and business owners | Board |
| Write press releases and news stories | Staff |
| Provide linkage with other organizations | Joint |
| Address citizen complaints and provide resolutions | Joint |

| BOARD OF COMMISSIONERS | RESPONSIBILITY |
|--|-----------------------|
| Appoint subcommittee members | Board |
| Appoint board of commissioner liaisons (See <i>Your Role as a Representative</i> , page 9) | Chairman of Board |
| Call subcommittee chairs to urge him/her to take action | Board |
| Promote attendance at subcommittee meetings | Joint |
| Recruit new subcommittee members when needed | Board |
| Plan agendas for board of commissioners' meetings | Chairman and Staff |
| Take minutes of board meetings | Staff |
| Prepare materials, analysis, and proposals for board meetings | Staff |
| Review, approve and sign legal documents | Board and Chairman |
| Follow up to ensure implementation of board and committee decisions | Staff |
| Settle disagreements between committees and committee members | Board |

It is important to remember your role as a policy-maker and let staff handle the day-to-day activities involved in running the county because they are the experts with the education, background, and experience who make local government run. If you do, you will have more time and energy available to work on challenging policy issues, communicate with the citizens you were elected to represent, and conduct other important leadership activities in your county. Communicating and planning with and through staff is also important because depending on what you are discussing, doing the same with another commissioner or commissioners may be a violation of Nevada's Open Meeting Law. Finally, depending on the situation, some ethics laws may also come into play. Become familiar with your limitations when directing employees and respect the various laws and rules that have been adopted to protect both you and staff.

The District Attorney and You

In Nevada, the District Attorney acts as principal advisor to the commission as a whole. As tempting as it may be due to your now direct access, you should never expect the District Attorney to counsel you as an individual on personal civil matters. NRS 281A.020(1) states: (a) "A public office is a public trust and shall be held for the sole benefit of the people." (b) "A public officer or employee must commit himself or herself to avoid conflicts between the

private interests of the public officer or employee and those of the general public whom the public officer or employee serves.” These public policy statements form the cornerstone of ethics law in Nevada and must be heeded. Never attempt to insert yourself into a criminal proceeding in which the District Attorney is seeking a judgment, this would be a violation of Nevada’s ethics laws and could also be a breach of other laws.

Other County Elected Officials

Your county’s other elected officials—Assessor, Auditor, Clerk, District Attorney, Justice and District Court Judges, Public Administrator, Recorder, Sheriff and Treasurer—have separate and distinct roles and statutory obligations. Your role as a county commissioner is to provide the funding (based on your financial limitations, of course) and organizational support necessary for them to perform their statutory duties. Organizational support includes, but is not limited to, finance, human resources, information technology, and facilities. You have no supervisory or managerial control over other elected officials and should never use your office to interfere with the responsibilities and duties of their offices. This rule also applies to appointed officials. Ideally, a county will have outlined the job and position criteria for appointment and provide oversight, but as a general rule you should not interfere with the specific outlined responsibilities and duties of the appointed office.

There are specific statutes that authorize boards of county commissioners to initiate certain actions against other county elected officials in the case of willful or corrupt misconduct in office, as well as malfeasance, misfeasance or nonfeasance. Check with your District Attorney or NACO staff for more guidance if you have concerns.

Policy-Making through the Budget Process

County government can only accomplish those things boards of commissioners authorize it to pay for. Simply put, if a board of commissioners refuses to pay for something, it will not get done. Therefore, the best management tool for effecting and implementing policy is your county’s annual operating budget. The budget sets the spending limit for every program and every department in the county. If you think of county government as a machine, the budget is the only way to see how each gear (department) works and meshes with another in order to meet your goals. The “product” your machine produces is service, and the budget provides your raw material.

Nevada State Law requires the board of county commissioners to adopt a budget every year. Statutory deadlines are outlined in the sections below.

Nevada’s Budget Cycle

NRS 354.492 defines “budget” as “*a plan of financial operation embodying an estimate of proposed expenditures and expenses for a given period and the proposed means of financing them*”. The county budget cycle starts when the Nevada Department of Taxation issues an

estimate of county revenues for the next fiscal year (July 1 through June 30). These revenue projections will be your guidelines as you build your tentative budget, which is due to the Department of Taxation on or before April 15 every year. Some of your budget targets based on these estimates will include compensation and benefits (necessary for labor negotiations) and whether your budget can grow or must be reduced (which will affect both the services you offer and the manpower needed to deliver them).

Most budget decisions will continue policies and programs that were established in previous years or confirm policies and programs set at the state or federal level. The majority of your county's budget will be used to support statutorily mandated activities and programs.

Adoption of the county's final budget must occur on or before June 1 of each year.

The State of Nevada approves their budget every other year during the Legislative Session (held in odd-numbered years). At that time, a budget is completed for all State services, some of which are carried out at the local level or in conjunction with counties. The counties may be forced to participate in funding the delivery of some of these services. This forced participation is referred to as an "unfunded mandate", which can have quite a negative impact on your operating budget.

Fund Structure

As a new commissioner, you will benefit greatly by studying your county's fund structure and learning which funds support which programs. County fund structures are very complex. There can be as many as 80 separate funds which, by law, must be dedicated to specific purposes. Think of it as having 80 different companies with their own set of books. Decisions pertaining to the county budget are the most important responsibilities commissioners have. Dependable service delivery without adequate, stable funding is nearly impossible.

The General Fund typically pays for most internal services, other elected officials' departments, criminal justice and emergency service functions, and portions of zoning and building code enforcement. It is where the majority of the activity will take place in your county's spending.

The Road Fund is generally second in order of importance. The Road Fund is referred to as a Special Revenue Fund because its revenues, county taxes on gasoline, are dedicated to the construction of roads and bridges. There is less competition over the Road Fund than the General Fund because by law, the revenues can only be used for limited purposes. This is actually true for most funds, except the General Fund.

Nevada's counties receive funding from multiple revenue sources including sales and use taxes, property (ad valorem) taxes, net proceeds of minerals and other tax revenue. We

encourage county elected officials to ask their county treasurer or county fiscal officer for a breakdown of those revenues and associated funds, including how ad valorem taxes are calculated and the different rates your county has set.

Other Funds Maintained by County Government

Each county shall maintain, according to its own needs, the following kinds of funds:

Governmental Funds (in addition to General and Road)

- Capital Projects Fund – resources used for the acquisition or construction of designated capital assets
- Debt Service Fund – to account for the accumulation of resources for and the payment of principal or interest on any general long-term debt or medium-term obligation
- Proprietary Fund – an internal service fund or enterprise fund

Proprietary Funds

- Enterprise Fund – established to account for operations that are financed and conducted in a manner similar to the operations of private business enterprises
- Internal Service Fund – used to account for the financing of goods or services furnished by a designated department or agency on the basis of reimbursement for costs

Fiduciary Funds

- Pension and other Employee Benefits Funds
- Investment Trust Funds
- Private-Purpose Trust Funds
- Agency Funds

Nevada Public Records Law

During the 2019 session of the Nevada Legislature, numerous reforms were made to Nevada Public Records Law (NRS 239.010-239.055). The Nevada Public Records Law gives members of the public and the media the right to inspect and copy certain records maintained by your county. Certain records are exempt from public disclosure, or that disclosure may require balancing the right of the public to access the records against individual privacy rights, governmental interests, confidentiality issues and attorney/client privilege. There are also costs involved if the county receives a request to inspect or copy public records.

The modernization of this law provided for some additional mandates on local governments. For instance, there is the potential for monetary penalties for the failure to provide a requested public record, mandatory response times and guidelines for assisting individuals with their public records' requests.

How a Bill Becomes Law (from *The Guide to the Nevada Legislature*¹)

The following is a general description of the first steps in the legislative process if a bill is to be enacted into law. As a general rule, a bill must be approved by both houses of the Legislature and signed by the Governor to become a law.

1. Initial Steps by the Author

Idea – Ideas for legislation come from State and local governments, elected officials, businesses, organizations, and citizens.

Drafting – Requests for drafting may be made by legislators, legislative committees, the Governor, State agencies, and local governments. A staff attorney for the Legislature prepares a formal draft of a bill.

2. Action in the House of Origin

Introduction and First Reading – A bill is submitted for introduction by an individual legislator or committee chair. It is then numbered, read for the first time, referred to committee, printed, and delivered to the committee.

Committee Action and Report – A committee holds a hearing to take testimony and gather information about the bill. A committee may make a variety of recommendations to the entire legislative body. It may recommend that the house pass a bill as it is written or pass it with amendments. If a committee decides that a bill requires further committee consideration, it may recommend that the house amend the bill and re-refer it to another committee. Finally, a committee may vote to indefinitely postpone consideration of a bill, effectively killing it, or may take no action at all.

Second Reading Before the Full House – A bill given a “do pass” recommendation is read a second time and placed on the General File for debate and final vote. A bill that is given an “Amend and Do Pass” recommendation is read a second time, and if the amendment is adopted, it is reprinted before being placed on General File for action.

¹ *The Guide to the Nevada Legislature*, Prepared by the Research Division, Legislative Council Bureau, February 2015.

Floor Debate and Vote by the Full House – A bill is read a third time and debated. A roll call vote follows. Passage of most bills and joint resolutions requires 11 votes in the Senate and 22 in the Assembly. The passage of a bill that imposes or increases a tax or fee requires a two-thirds majority (14 votes in the Senate and 28 votes in the Assembly). A measure that does not receive at least the required number of votes is defeated. Any member voting on the prevailing side may serve notice of reconsideration to request a second vote. All bills that are passed by the first legislative house are forwarded to the second house for consideration.

3. Action in the Second House

The method of processing a bill in the second house is identical to that in the first house. If the second house to consider a bill passes it without an amendment, it is enrolled and sent to the Governor. Resolutions are sent to the Secretary of State. If the second house amends a measure, it is returned to the house of origin for consideration of the amendments.

4. Resolution of Differences, If Necessary

Consideration of Amendments – The house of origin decides whether to accept the second house's amendments. If it accepts the amendments, the bill is enrolled and sent to the Governor. If the amendments are rejected, the bill is returned to the second house for a decision whether or not to withdraw the proposed changes.

Conference Committee – If the second house does not withdraw its proposed changes, the bill is referred to a conference committee that includes members of both houses. The conference committee attempts to resolve the differences and presents its recommendation in the form of a conference report. If both houses accept the report, the bill is enrolled and sent to the Governor. The bill dies if the members of the conference committee fail to agree or if a conference report is not adopted by both houses.

5. The Role of the Governor

The Governor must act on a bill within five days after receiving it if the Legislature is still in session, or ten days if the session has ended (Sundays excepted). The Governor may sign the bill into law, allow it to become law without a signature, or veto it. A vetoed bill returns to the house of origin to consider overriding the veto. An override requires a two-thirds majority of both houses. If the Governor vetoes a bill after session ends, the bill returns to the next regular legislative session. Measures become effective on October 1 following the end of the legislative session, unless otherwise specified in the bill.

ABOUT THE NEVADA ASSOCIATION OF COUNTIES (NACO)

Mission Statement:

“To encourage county government to adopt and maintain local, regional, state and national cooperation which will result in a positive influence on public policy and optimize the management of county resources; to provide valuable education and support services that will maximize efficiency and foster public trust in county government.”

It is our belief that county government, being closest to the people, has the best opportunity to make positive change and lead our communities into the future. We work to provide our counties with the resources to achieve this end.

Staff

Dagny Stapleton

Dagny began her tenure as NACO’s Executive Director in October 2017, following four years of serving as NACO’s Deputy Director. Dagny has a background in government affairs, land use policy, and local government administration. On behalf of NACO, Dagny represents Nevada’s counties at the State Legislature as well as before interim committees and other state bodies. Dagny has participated in every regular session of the Nevada Legislature since 2009. Before coming to NACO Dagny worked as the government affairs manager for the Nevada Rural Electric Association as well as for Praxis Consulting Group, an affordable housing development consultant. Dagny has a master’s degree in Land Use Planning and Policy from the University of Nevada, Reno, and received her undergraduate degree from Columbia University in New York City.

Vinson Guthreau

Vince started at NACO January of 2018, having previously served as the government affairs manager for NACO in 2006 and 2007. Vince joins NACO with over 15 years of federal, state and local government experience, as well as a background in media relations and communications. Vince is a native Nevadan and has worked on issues important to counties throughout his career. In addition to his government affairs and communications experience, Vince also worked for the State of Nevada in the Department of Conservation and Natural Resources. Vince resides in Reno, and is a graduate of the University of Nevada, Reno.

Colby Prout

Colby began working at NACO in August 2019. He moved to Nevada in 2009 to work for the Nevada Conservation Corps. He worked on projects throughout the state, gaining valuable exposure to Nevada's unique natural resource issues. He gained his master's degree from the University of Nevada, Reno and received his J.D. in 2016 from Columbus School of Law at Catholic University in Washington, DC. While there he studied administrative and natural resource law. Just prior to joining NACO, Colby worked as a Staff Attorney for Nevada Legal Services in Reno.

Amanda Evans

Amanda Evans has been NACO's Office Manager since January 2015. Amanda has a background in real estate, development, and government affairs. Prior to joining NACO Amanda was a principal in a construction and development company in Douglas County and was a purchasing administrator for a Nevada homebuilder. Her experience includes work in the title and escrow field, and she studied business administration at Mohave Community College in Arizona. Amanda also acts as the Secretary to the Board of Directors and the Board for the Fund for Hospital Care to Indigent Persons (IAF).

Please visit NACO's website

for additional resources related to county government, updates on recent county activities and advocacy on behalf of Nevada's counties, and past meeting minutes and materials:

www.nvnaco.org

[Follow us on Twitter @NVNACO](#)

Or contact us at

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ABOUT THE NATIONAL ASSOCIATION OF COUNTIES (NACo)

All of Nevada's counties are also members of the National Association of Counties. The National Association of Counties (NACo) is the only national organization that represents county governments in the United States. Founded in 1935, NACo assists America's 3,069 counties in pursuing excellence in public service to produce healthy, vibrant, safe and resilient counties. NACo promotes sound public policies, fosters county solutions and innovation, promotes intergovernmental and public-private collaboration and provides value-added services to save counties and taxpayers money.

For more information please visit their website at:

<https://www.naco.org/>



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