

MEMORANDUM

To: SFSWMA Joint Powers Board
From: Randall Kippenbrock, P.E., Executive Director *RLK*
Date: March 17, 2025
Subject: Request for Approval of Resolution 2025-____, A Resolution Determining Reasonable Notice for Public Meetings of the Santa Fe Solid Waste Management Agency

SUMMARY

The proposed Resolution 2025-____ rescinds Resolution 2024-1 – related to the New Mexico Open Meetings Act – and adopts annual notice requirements for 2025.

The Open Meetings Act requires a public body to "determine at least annually in a public meeting what notice for a public meeting is reasonable when applied to that body" [NMSA 1978, Section 10-15-1 (D)].

The proposed Resolution 2025-____ updates language on how notices are posted for regular, special, and emergency meetings.

The proposed resolution updates language for special and emergency meetings that the Chairperson may schedule.

The proposed resolution includes language for closed meetings (executive sessions).

The proposed resolution updates the public health emergency provisions.

The proposed resolution maintains language on how board members and the public may attend and participate in meetings.

The proposed resolution also maintains language for the Agency to provide information on the agendas on how members of the public can listen and participate in meetings remotely.

There are no other substantive differences between the proposed and current resolutions.

ACTION REQUESTED

The Agency recommends approval of Resolution 2025-_____.

Attachments:

- 1) Proposed Resolution 2025-____. A Resolution Determining Reasonable Notice for Public Meetings of the Santa Fe Solid Waste Management Agency
- 2) Redline Version of Resolution 2024-1

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ATTACHMENT 1

Proposed Resolution 2025-____
**A Resolution Determining Reasonable Notice for Public Meetings of the Santa Fe Solid
Waste Management Agency**

SANTA FE SOLID WASTE MANAGEMENT AGENCY

RESOLUTION NO. 2025-1

A RESOLUTION DETERMINING REASONABLE NOTICE FOR PUBLIC MEETINGS OF THE SANTA FE SOLID WASTE MANAGEMENT AGENCY

WHEREAS, NMSA 1978, Section 10-15-1 *et seq.*, as amended, ("Open Meetings Act" or the "Act"), provides that all meetings of a quorum of members of any board, commission, or other policy-making body of any agency or authority of any county, municipality, district or any political subdivision, held for the purpose of formulating public policy, including the development of personnel policy, rules, regulations, or ordinances, discussion of public business or taking any action within the authority or the delegated authority of any board are declared to be public meetings open to the public at all times, except as otherwise provided in the constitution of New Mexico or the Open Meetings Act; and

WHEREAS, the Open Meetings Act further provides that any meetings at which the discussion or adoption of any proposed resolution, rule, regulation or formal action occurs, and at which a majority or quorum of the body is in attendance, and any closed meeting shall be held only after reasonable notice to the public; and

WHEREAS, the Act further requires a public body to determine in a public meeting at least annually what notice is reasonable when applied to that body; and

WHEREAS, the Santa Fe Solid Waste Management Agency (the "Agency") desires to also address in its Open Meetings Act Resolution how board members and the public may attend and participate in its public meetings; and

WHEREAS, the Agency will include information on its agendas as to how members of the public can listen and participate in meetings remotely; and

WHEREAS, the Agency now desires to adopt this Open Meetings Act Resolution in compliance with the Act's requirement for annual determination of reasonable notice for meetings of the Agency.

NOW, THEREFORE, BE IT RESOLVED BY THE SANTA FE SOLID WASTE MANAGEMENT AGENCY THAT:

1. Regular, Special and Emergency Meetings shall be held as follows:
 - a. Regular Meetings: Regular meetings shall be held as determined by the Agency, and notice to the public of any and all regular meetings shall be given at least seven (7) days in advance of any meeting of a quorum of the Board held for the purpose of taking any action within the authority of the Board. Notice of regular meetings shall be posted on the Agency's website, <https://www.sfswma.org/about-us/bidsagendasminutes/>, and the City of Santa Fe's CivicClerk portal, <https://santafenm.portal.civicclerk.com/>. Notice of meetings shall also be provided to broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made a written request for such notices.
 - b. Special Meetings: Special meetings may be scheduled by the Chairperson at such time and place as in the opinion of the Chairperson a special meeting should take place to consider and take action on public business. Notice of such special meetings shall be posted on the Agency's website, <https://www.sfswma.org/about-us/bidsagendasminutes/>, and the City of Santa Fe's CivicClerk portal, <https://santafenm.portal.civicclerk.com/>, at least seventy-two (72) hours prior to the public meeting. Notice of meetings shall also be provided to broadcast stations

licensed by the Federal Communications Commission and newspapers of general circulation that have made a written request for such notices.

- c. Emergency Meeting: Emergency meetings may be scheduled by the Chairperson to consider any matter which could not have been anticipated and which threatens the health, welfare or safety of the citizens of Santa Fe County or to protect the Agency from substantial financial loss if not addressed immediately by the Agency. Emergency meetings may be conducted at a time and place designated by the Chairperson. Notice of such meetings shall be posted on the Agency's website, <https://www.sfwma.org/about-us/bidsagendasminutes/>, and the City of Santa Fe's CivicClerk portal, <https://santafenm.portal.civicclerk.com/>, at least twenty-four (24) hours prior to the emergency meeting, if possible. If twenty-four (24) hours advance notice cannot be given, notice shall be posted as soon as possible under the circumstances. Notice for emergency meetings shall include an agenda for the meeting or information on how the public may obtain a copy of the agenda. Notice of meetings shall also be provided to broadcast stations licensed by the Federal Communication Commission and newspapers of general circulation that have made a written request for notices. Within ten (10) days of taking action on an emergency matter, the Agency shall report to the attorney general's office the action taken and the circumstances creating the emergency.
- d. Agendas: Any notice for meetings of the Board shall include an agenda containing a list of specific items of business to be discussed or transacted at the meeting, or information on how the public may obtain a copy of an agenda. At least seventy-two (72) hours before a regular or special meeting, the agenda shall be made

available on the Agency's website, <https://www.sfswma.org/about-us/bidsagendasminutes/>, and the City of Santa Fe's CivicClerk portal, <https://santafenm.portal.civicclerk.com/>.

- e. Closed Meetings (Executive Sessions): The Agency may close a meeting to the public only if the subject matter of discussion or action to occur in the closed meeting is exempted from the open meeting requirement under NMSA 1978, Section 10-15-1(H) of the Open Meetings Act. Procedures for closing a meeting to the public are as follows:
 - i. If any meeting is closed during an open meeting, such closure shall be approved by a roll call majority vote of a quorum of the Agency taken during the open meeting. The authority for the closure and the subjects to be discussed shall be stated with reasonable specificity in the motion for closure, and the vote on the closure of each board member shall be recorded in the minutes. Only those subjects specified in the motion may be discussed in a closed meeting.
 - ii. A closed meeting may be scheduled and conducted separately from an open meeting if advance notice of the closed meeting, appropriate under the circumstances, states the specific provision of law authorizing the closed meeting and the subjects to be discussed with reasonable specificity is given to the public.
 - iii. Following completion of any closed meeting, the minutes of the open meeting that was closed, or the minutes of the next open meeting if the closed meeting was separately scheduled, shall state whether the matters

discussed in the closed meeting were limited only to those specified in the motion for closure or the notice for the closed meeting.

iv. Except as provided in NMSA 1978, Section 10-15-1(H) of the Open Meetings Act, any action taken as a result of discussions in a closed meeting shall be made by a vote of the Board in an open public meeting.

f. Public Health Emergency Provisions: Notwithstanding any other provision of this Resolution, meeting locations, in-person meetings, posting requirements and any other deviation deemed necessary or advisable due to any public health emergency or conditions, including any emergency as may be declared by the New Mexico Department of Health or other public health authority, may be made, while taking into account any guidance provided by the New Mexico Attorney General's Office for public meetings during public health emergencies. Specifically, board members may participate remotely in meetings by conference telephone, video conference or other similar communications equipment provided that allows the public to hear and/or view the board meeting. Additionally, the Chairperson has the authority to take the following actions: (i) exclude or limit the public from in-person attendance at meetings, provided that the public may witness the meeting either by telephone or video means; or (ii) cancel any meeting prior to commencement of such meeting to preserve the public health, safety and welfare.

2. **BE IT FURTHER RESOLVED**, that the Agency may recess and reconvene a meeting to a later day if, prior to recessing, the Agency specifies the date, time and place for continuation of the meeting, and immediately following the recessed meeting posts notice of the date, time and place of the reconvened meeting on or near the door of the place where the original

meeting was held and on the Agency's website, <https://www.sfswma.org/about-us/bidsagendasminutes/>. Only matters appearing on the agenda of the original meeting may be discussed at the reconvened meeting.

3. **BE IT FURTHER RESOLVED**, that members of the public may attend a public body meeting in person or virtually. A board member may participate in a meeting by means of a conference telephone, video conference or other similar communications equipment when it is otherwise difficult or impossible for the member to attend the meeting in person, provided that each member participating remotely can be identified when speaking, all participants are able to hear each other at the same time, and members of the public attending the meeting are able to hear any member of the public body who speaks during the meeting.

4. **BE IT FURTHER RESOLVED**, that notwithstanding any provision contained herein, the Agency may establish such additional notice requirements as may be deemed necessary and advisable.

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5. **BE IT FURTHER RESOLVED**, that Resolution 2024-1 is hereby rescinded.

PASSED, APPROVED, AND ADOPTED this 20th day of March 2025.

SANTA FE SOLID WASTE MANAGEMENT AGENCY:

Lee Garcia
Chair, Joint Powers Board

Date:

ATTEST:

Andréa Salazar
Santa Fe City Clerk

Date

APPROVED AS TO FORM:

Nancy R. Long
Agency Attorney

Date:

ATTACHMENT 2

Redline Version of Resolution 2024-1

SANTA FE SOLID WASTE MANAGEMENT AGENCY

RESOLUTION NO. ~~202~~425-1

A RESOLUTION DETERMINING REASONABLE NOTICE FOR PUBLIC MEETINGS OF THE SANTA FE SOLID WASTE MANAGEMENT AGENCY

WHEREAS, NMSA 1978, Section 10-15-1 *et seq.*, as amended, ("Open Meetings Act" or the "Act"), provides that all meetings of a quorum of members of any board, commission, or other policy-making body of any agency or authority of any county, municipality, district or any political subdivision, held for the purpose of formulating public policy, including the development of personnel policy, rules, regulations, or ordinances, discussion of public business or taking any action within the authority or the delegated authority of any board are declared to be public meetings open to the public at all times, except as otherwise provided in the constitution of New Mexico or the Open Meetings Act; and

WHEREAS, the Open Meetings Act further provides that any meetings at which the discussion or adoption of any proposed resolution, rule, regulation or formal action occurs, and at which a majority or quorum of the body is in attendance, and any closed meeting shall be held only after reasonable notice to the public; and

WHEREAS, the Act further requires a public body to determine in a public meeting at least annually what notice is reasonable when applied to that body; and

WHEREAS, the Santa Fe Solid Waste Management Agency (the "Agency") desires to also address in its Open Meetings Act Resolution how board members and the public may attend and participate in its public meetings; and

WHEREAS, the Agency will include information on its agendas as to how members of the public can listen and participate in meetings remotely; and

WHEREAS, the Agency now desires to adopt this Open Meetings Act Resolution in compliance with the Act's requirement for annual determination of reasonable notice for meetings of the Agency.

NOW, THEREFORE, BE IT RESOLVED BY THE SANTA FE SOLID WASTE MANAGEMENT AGENCY THAT:

1. Regular, Special and Emergency Meetings shall be held as follows:
 - a. Regular Meetings: Regular meetings shall be held as determined by the Agency, and notice to the public of any and all regular meetings shall be given at least seven (7) days in advance of any meeting of a quorum of the Board held for the purpose of taking any action within the authority of the Board. Notice of regular meetings shall be posted on the Agency's website, <https://www.sfswma.org/about-us/bidsagendasminutes/>, and the City of Santa Fe's CivicClerk portal, <https://santafenm.portal.civicclerk.com/>. ~~A notice shall be posted on the Agency's website and the City of Santa Fe's website, at least seven (7) days prior to the public meeting.~~ Notice of meetings shall also be provided to broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made a written request for such notices.
 - b. Special Meetings: Special meetings may be scheduled by the Chairperson ~~or by a majority of the Board~~ at such time and place as in the opinion of the Chairperson ~~or a majority of the Board~~ a special meeting should take place to consider and take action on public business. Notice of such special meetings shall be posted on the ~~Agency's website and the City of Santa Fe's website~~ Agency's website, <https://www.sfswma.org/about-us/bidsagendasminutes/>, and the City of Santa Fe's

CivicClerk portal, <https://santafenm.portal.civicclerk.com/>, at least seventy-two (72) hours prior to the public meeting. Notice of meetings shall also be provided to broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made a written request for such notices.

- c. Emergency Meeting: Emergency meetings may be scheduled by the Chairperson ~~or by a majority of the Board~~ to consider any matter which could not have been anticipated and which threatens the health, welfare or safety of the citizens of Santa Fe County or to protect the Agency from substantial financial loss if not addressed immediately by the Agency. Emergency meetings may be conducted at a time and place designated by the Chairperson ~~or by a majority of the Board, and notice.~~ Notice of such meetings shall be posted ~~on the Agency's website and the City of Santa Fe's website~~ on the Agency's website, <https://www.sfswma.org/about-us/bidsagendasminutes/>, and the City of Santa Fe's CivicClerk portal, <https://santafenm.portal.civicclerk.com/>, at least twenty-four (24) hours prior to the emergency meeting, if possible. If twenty-four (24) hours advance notice cannot be given, notice shall be posted as soon as possible under the circumstances. Notice for emergency meetings shall include an agenda for the meeting or information on how the public may obtain a copy of the agenda. Notice of meetings shall also be provided to broadcast stations licensed by the Federal Communication Commission and newspapers of general circulation that have made a written request for notices. Within ten (10) days of taking action on an emergency matter, the Agency shall report to the attorney general's office the action taken and the circumstances creating the emergency.

- d. Agendas: Any notice for meetings of the Board shall include an agenda containing a list of specific items of business to be discussed or transacted at the meeting, or information on how the public may obtain a copy of an agenda. At least seventy-two (72) hours before a regular or special meeting, the agenda shall be made available ~~at the Santa Fe County Administration Complex, 100 Catron Street and the Santa Fe City Clerk's Office, 200 Lincoln Avenue, Santa Fe, New Mexico, and shall be posted on the Agency's website at www.sfswma.org.~~ on the Agency's website, <https://www.sfswma.org/about-us/bidsagendasminutes/>, and the City of Santa Fe's CivicClerk portal, <https://santafenm.portal.civicclerk.com/>.
- e. Closed Meetings (Executive Sessions): The Agency may close a meeting to the public only if the subject matter of discussion or action to occur in the closed meeting is exempted from the open meeting requirement under NMSA 1978, Section 10-15-1(H) of the Open Meetings Act. Procedures for closing a meeting to the public are as follows:
- i. If any meeting is closed during an open meeting, such closure shall be approved by a roll call majority vote of a quorum of the Agency taken during the open meeting. The authority for the closure and the subjects to be discussed shall be stated with reasonable specificity in the motion for closure, and the vote on the closure of each board member shall be recorded in the minutes. Only those subjects specified in the motion may be discussed in a closed meeting.
 - ii. A closed meeting may be scheduled and conducted separately from an open meeting if advance notice of the closed meeting, appropriate under the

circumstances, states the specific provision of law authorizing the closed meeting and the subjects to be discussed with reasonable specificity is given to the public.

iii. Following completion of any closed meeting, the minutes of the open meeting that was closed, or the minutes of the next open meeting if the closed meeting was separately scheduled, shall state whether the matters discussed in the closed meeting were limited only to those specified in the motion for closure or the notice for the closed meeting.

iv. Except as provided in NMSA 1978, Section 10-15-1(H) of the Open Meetings Act, any action taken as a result of discussions in a closed meeting shall be made by a vote of the Board in an open public meeting.

d.f. Public Health Emergency Provisions: Notwithstanding any other provision of this Resolution, meeting locations, in-person meetings, posting requirements and any other deviation deemed necessary or advisable due to any public health emergency or conditions, including any emergency as may be declared by the ~~WHO and/or the~~ New Mexico Department of Health or other public health authority, may be made, while taking into account any guidance provided by the New Mexico Attorney General's Office for public meetings during public health emergencies. Specifically, ~~b~~Board members may participate remotely in meetings by conference telephone, video conference or other similar communications equipment provided that allows the public to hear and/or view the board~~platforms or other similar communications equipment provided that means are provided to allow for the public to hear and/or view the Board~~ meeting. Additionally, the ~~Board~~ Chairperson

has the authority to take the following actions: (i) exclude or limit the public from in-person attendance at meetings, provided that the public may witness the meeting either by telephone or video means; or (ii) cancel any meeting prior to commencement of such meeting to preserve the public health, safety and welfare.

2. **BE IT FURTHER RESOLVED**, that the Agency may recess and reconvene a meeting to a later day if, prior to recessing, the Agency specifies the date, time and place for continuation of the meeting, and immediately following the recessed meeting posts notice of the date, time and place of the reconvened meeting on or near the door of the place where the original meeting was held ~~and on the public bulletin board at the Santa Fe County Administration Complex or Santa Fe City Clerk's Office~~ and on the Agency's website, <https://www.sfswma.org/about-us/bidsagendasminutes/>. Only matters appearing on the agenda of the original meeting may be discussed at the reconvened meeting.

3. **BE IT FURTHER RESOLVED**, that ~~a members~~ of the public may attend a public body meeting in person or virtually. A board member may participate in a meeting by means of a conference telephone, video conference or other similar communications equipment when it is otherwise difficult or impossible for the member to attend the meeting in person, provided that each member participating remotely can be identified when speaking, all participants are able to hear each other at the same time, and members of the public attending the meeting are able to hear any member of the public body who speaks during the meeting.

4. **BE IT FURTHER RESOLVED**, that notwithstanding any provision contained herein, the Agency may establish such additional notice requirements as may be deemed necessary and advisable.

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5. **BE IT FURTHER RESOLVED**, that Resolution 202~~34~~-1 is hereby rescinded.
PASSED, APPROVED, AND ADOPTED this 2~~10~~¹⁰**th** day of March ~~2024~~²⁵.

SANTA FE SOLID WASTE MANAGEMENT AGENCY:

~~Camilla Bustamante~~Lee Garcia
Chair, Joint Powers Board

Date:

ATTEST:

~~Katharine E. Clark~~Andréa Salazar
Santa Fe ~~County~~City Clerk

Date

APPROVED AS TO FORM:

Nancy R. Long
Agency Attorney

Date: