

City Council Refreshers

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May 24, 2022





Role of Staff

- Expertise, Experience, and Institutional Knowledge
- Assist Council in Setting Community Priorities
- Implement the Council Policy Decisions
- Oversee and Run Operations of the City
 - Administer the City Budget
 - Manage Personnel
 - Emergency Services, Law Enforcement, Court Administration
 - Oversee Utilities, Infrastructure, and Facilities
 - Provide Community Outreach and Engagement
 - Community Development, Economic Vitality



Council Meetings

Agendas

- Packet preparation is an ongoing process that spans the course of multiple weeks
- Agenda packets are intended to provide the information needed for Council to make informed decisions
- Packets are created and distributed digitally
 - Distributed on Friday afternoons in preparation for the following Tuesday
- Draft Agenda distributed 1 week prior to the meeting
 - Allows Council an opportunity to review materials and present any questions before the meeting



Council Meetings

- Council Recess
 - Approximately 6 weeks in July and August
 - July 6, 2022 through August 22, 2022
- Frequency of Meetings
 - Regular Meetings on 1st and 3rd Tuesday
 - Work Sessions on 2nd and 4th Tuesday
 - Months with 5 Tuesdays will have a Special Work Session
 - Focus on Board and Commission Updates



Council Meetings

Typical Meeting Agendas

- Consent Agenda
 - All items approved with one single motion
 - Basic matters with no staff presentations
 - Improves the efficiency of meetings
- Routine Items
 - Routine matters that require basic staff presentations
 - 2nd reads and adoption of ordinances
- Regular Items
 - In-depth items and items of high interest by the public
 - Ordinances and Resolutions
- Public Hearings
 - Statutorily required
 - Rezones, regional plan amendments, liquor licenses, etc.



Council Meetings

Public Comment/Participation

- The public is permitted to speak 3 times during a meeting and each comment is limited to 3 minutes
- **Public Participation** is at the beginning and end of the meeting and is confined to comments on items that are NOT on the agenda
 - Council may not dialogue with these speakers as there has not been proper public notice of the topic
- **Public Comment** is reserved for items that are on the agenda
 - Council can dialogue with these speakers if desired
- **Virtual & Physical Comment** options are available



Boards and Commissions

Appointment Process

- 27 Boards and Commission
- 3 Year Terms
- Application Review
 - Recommend informal interviews with applicants
 - Seek input from staff liaison for the commission
 - Seek input from Council liaison for the commission
- Councilmember Recommendation
 - Rotation for recommendations
 - Provides opportunity for all councilmembers to make a recommendation



Working Calendar



- Living document that changes daily
- Distributed every Friday with agenda
- Posted on the City website

CITY OF FLAGSTAFF, ARIZONA

WORKING CALENDAR – 2022

Updated 5/17/2022 11:12 AM

TUESDAY, MAY 24, 2022 – SPECIAL WORK SESSION						
TYPE	TIME	ITEM	REQUESTOR	SUBJECT	STAFF	LOCKED DEADLINE
SWS	3:00 PM	Disc.	Saltzburg	Indigenous Commission Update	Fobar	05/18/2022
SWS	3:00 PM	Disc.	Saltzburg	Tourism Commission Update	Fobar	05/18/2022
SWS	3:00 PM	Disc.	Barrett	Lone Tree Overpass Project – Review of the Economic Impact Study and concept design for the Elden Loop Road	Cameron	05/18/2022
SWS	3:00 PM	Disc.	Saltzburg	FAIR Check-in and Prioritizing	Saltzburg	05/18/2022
SWS	3:00 PM	Disc.	Saltzburg	Council Procedure Refresher	Saltzburg/Solomon	05/18/2022

TUESDAY, MAY 31, 2022 – EXECUTIVE SESSION*/WORK SESSION						
TYPE	TIME	ITEM	REQUESTOR	SUBJECT	STAFF	LOCKED DEADLINE
ES	1:00 PM	ES	Cortes	Magistrate and On-Call Magistrate Reappointments and On-Call Magistrate Appointment (A1)	Cortes	
ES	1:00 PM	ES	Solomon	Legal advice and contract negotiations re proposed Timber Sky DA Amendment. (A3, A4)	Rubalcava	
WS	3:00 PM	Disc.	Deasy	Proclamation: National Gun Violence Awareness Day, PRIDE Month	Johnson	05/25/2022
WS	3:00 PM	Disc.	Hansen	NACET Annual Update	McIntire	05/25/2022
WS	3:00 PM	Disc.	Hansen	Business Listening Tour	Saltonstall	05/25/2022
WS	3:00 PM	Disc.	Folke	Regional Plan Update Collaborative Process	Dechter	05/25/2022
WS	3:00 PM	Disc.	Folke	Case Nos. PZ-22-00074 Updates to Zoning Code – Hours of Operation for Marijuana Dispensaries and PZ-22-00089 Updates to Zoning Code-Marijuana Dispensary Social Equity Licenses and Separation Requirements	Antol	05/25/2022
WS	3:00 PM	Disc.	Folke	Timber Sky Development Agreement	Antol	05/25/2022
WS	3:00 PM	Disc.	Barrett	Fourth Street/Cedar Avenue/Lockett Road Roundabout Discussion	DeGeyter	05/25/2022
WS	5:30 PM	Disc.	Langley	Flood Project Updates (start time no earlier than 5:30)	Langley	05/25/2022
WS				Review of Draft Agenda for June 7, 2022 Meeting		

TUESDAY, JUNE 7, 2022 – COUNCIL MEETING						
TYPE	TIME	ITEM	REQUESTOR	SUBJECT	STAFF	DEADLINE
ES	1:00 PM		Solomon	Legal Advice and Settlement Discussions on Prop 207 Claims (A3, A4)	Rubalcava	
CM	3:00 PM	Recog.	Gaillard	Citizen Heroism Award	Gaillard	05/25/2022
CM	3:00 PM	Appts	Saltzburg	Appointments – NAIPTA TAC, Open Space Commission	Fobar	05/25/2022
CM	3:00 PM	LL	Saltzburg	Liquor License Applications – Dark Sky Brewery, Mother Road Brewing Company, Milton Marathon, Collins Irish Pub & Eatery	Fobar	05/25/2022
CM	3:00 PM	Consent	Cortes	Magistrate and On-Call Magistrate Reappointments and On-Call Magistrate Appointment	Cortes	05/25/2022
CM	3:00 PM	Consent	Suda	Cooperative Purchase Contract with Educational Services, LLC (ESI)	Suda	05/25/2022
CM	3:00 PM	Consent	Gaillard	Contract with ESO software for fire and medical reporting	Wilson	05/25/2022
CM	3:00 PM	Consent	Overton	Construction contract for the 2022 Street Maintenance project	Miele	05/25/2022
CM	3:00 PM	Consent	Bertelsen	Contract for LMWTP Tower Painting Project	Huntzinger	05/25/2022
CM	3:00 PM	Consent	Folke	Contract: Intent to Purchase Lake Mary Water Treatment Plant Real Property	Doty	05/25/2022
CM	3:00 PM	Consent	Tadder	Contract for City's Professional On-Call Services	Markel	05/25/2022
CM	3:00 PM	Routine	Folke	Ord. – 2 nd Read – Case No. PZ-22-00045 Updates to Zoning Code 2022 – Notification Requirements for Development Agreements (Including Amendments)	Antol	05/25/2022
CM	3:00 PM	Routine	Folke	Ord. – 2 nd Read – Direct to Ordinance Zoning Map Amendment – Restoration Soils	Antol	05/25/2022



Legal Sphere

- **CHARTER**

- Flagstaff's "Constitution" – (Not a general law city)
- Provides for a Council-Manager form of Government
(Charter Article I, Section 2)
- Council makes policy decisions
(Charter Article II, Section 11)



Legal Sphere

- **CHARTER**

- **Council appoints a City Manager**

(Charter Article III, Section 2)

- **Manager implements policy and administers city government**

(Charter Article III, Section 3)

- **Council does not direct city staff – The non-interference clause**

(Charter Article II, Section 18)



Legal Sphere



- **CHARTER**

- Council appoints two additional positions:
 - City Attorney
(Charter Article IV, Section 4)
 - City Magistrate(s) – referred to as “Police Judges” in the Charter
(Charter Article XI, Section 2)
- Council also appoints Boards and Commissions – advisory only
(Charter Article V, Section 1)
- City Manager makes all other appointment/hiring decisions; prepares the agenda; prepares the budget, etc.
(Charter Article III, Section 3)



Legal Sphere

- **CHARTER**

- Council powers and duties are outlined in Article II of the Charter
 - Four or more councilmembers constitute a “quorum” of Council – cannot meet or act as a public body with less than four – each entitled to one vote

(Charter Article II, Section 15)

- Mayor is the ceremonial head of the city and presides over the City Council Meetings – may make and second motions

(Article II, Section 7)

- Council meetings are where decisions/formal actions of Council are made, and local policy and laws are created via resolution and ordinances respectively



Legal Sphere

- **CHARTER**

- **City Council Meetings**

- (Charter Article II, Section 12-14)

- **General Meetings**

- (Charter Article II, Section 12)

- **Special Meetings**

- (Charter Article II, Section 13)

- **Rules of Procedure – More specific on date, time, location of meetings and cannot be changed except by majority vote of council**

- (Charter Article II, Section 14)



Legal Sphere

- **CHARTER**

- **Other General areas of Charter**

- City Divisions and Apartment (Charter Article IV)
 - Finance and Taxation (Article VI)
 - Contract (Article VIII)
 - Elections (Article IX)
 - Initiatives, Referendum and Recall (Article X)
 - Franchises and Public Utilities (Article XII)
 - General, Succession in Government, and Amendments (Articles XIII-XIV)

- **Council acts by motion, resolution or ordinance**

(Charter Article VII) - action in regular or special meetings only ... no action in work sessions



Legal Sphere

- **CITY CODE**

- **Council actions by ordinance create the City Code**

- (Charter Article VII) - action in regular or special meetings only ... no action in work sessions

- **Become codified as the general ordinances - laws of the City to be implemented/enforced by city administration**

- (Charter Article VII, Section 15 and City Code Section 1-01-001-0001)

- **Resolutions are not codified and therefore are not part of the City Code yet still create or denote policy of the Council**

- **City Code may be amended by any future council by ordinance**

- (Charter Article VII; City Code Section 1-01-001-0003)



Legal Sphere

- CITY CODE

- Where the “nuts and bolts” or details of City regulations exist
- Governs everything from boards and commission, to nuisances for dogs at large, to creation of and duties of specific city divisions, to the zoning regulations, to minimum wage
- Divided into Titles 1-15 which contain numerous sections and subsections



Legal Sphere





Legal Sphere

OPEN MEETING LAW

ARS § 38-431.01(A)

All meetings and legal action of public bodies shall be public meetings and open to the public to attend and listen to the deliberations and proceedings.

ARS § 38-431.09

It is the public policy of Arizona that public meetings be conducted openly with notices and agendas provided that contain enough information to inform the public of the matters to be discussed or decided.



Legal Sphere



OPEN MEETING LAW

- All public meetings shall be open to the public.
- Legal action must take place in a public meeting.
- The proposal or discussion of an action must take place in a public meeting.
- Only agenda items may be discussed.
- Public access should be maximized.
- Any uncertainty resolved in favor of openness.



Legal Sphere

OPEN MEETING LAW

ARS § 38-431(4) - A meeting is a gathering, in person or through technological devices, of a quorum of a public body at which they discuss, propose, or take legal action, including deliberations.

- This includes electronic means, telephone, e-mail, and social media communications.



Legal Sphere

Meetings must comply with notice, agenda, and minute requirements.

Agendas and Notices

- Date/Time/Place.
- Information that describes the matters to be discussed or decided.
- Minimum 24-Hour public notice is required.

Minutes

- Date/Time/Place.
- Members present/absent.
- General description of matters discussed and/or considered.
- Legal actions proposed, discussed or taken, names of who proposed/seconded each motion/motion results, and dissenting votes.
- Names of persons making statements/presenting material.



Legal Sphere

What is a Quorum?

- A majority of members.

What if there is not a Quorum?

- Without a quorum there can be no meeting.
- The meeting is adjourned and discussions and presentations rescheduled.

What if the quorum is lost during the meeting?

- The meeting is immediately adjourned.



Legal Sphere

ARS 38-431.03

Executive Sessions are meetings that are closed to the public but require a public majority vote of a quorum of members.

Nine statutory reasons for convening in executive session.

Most commonly used:

- Employment (A1)
- Legal Advice (A3)
- Contract Negotiations (A4)
- Property Negotiations (A7)



Legal Sphere

OPEN MEETING LAW

Polling individual public officials to reach a decision prior to a meeting.

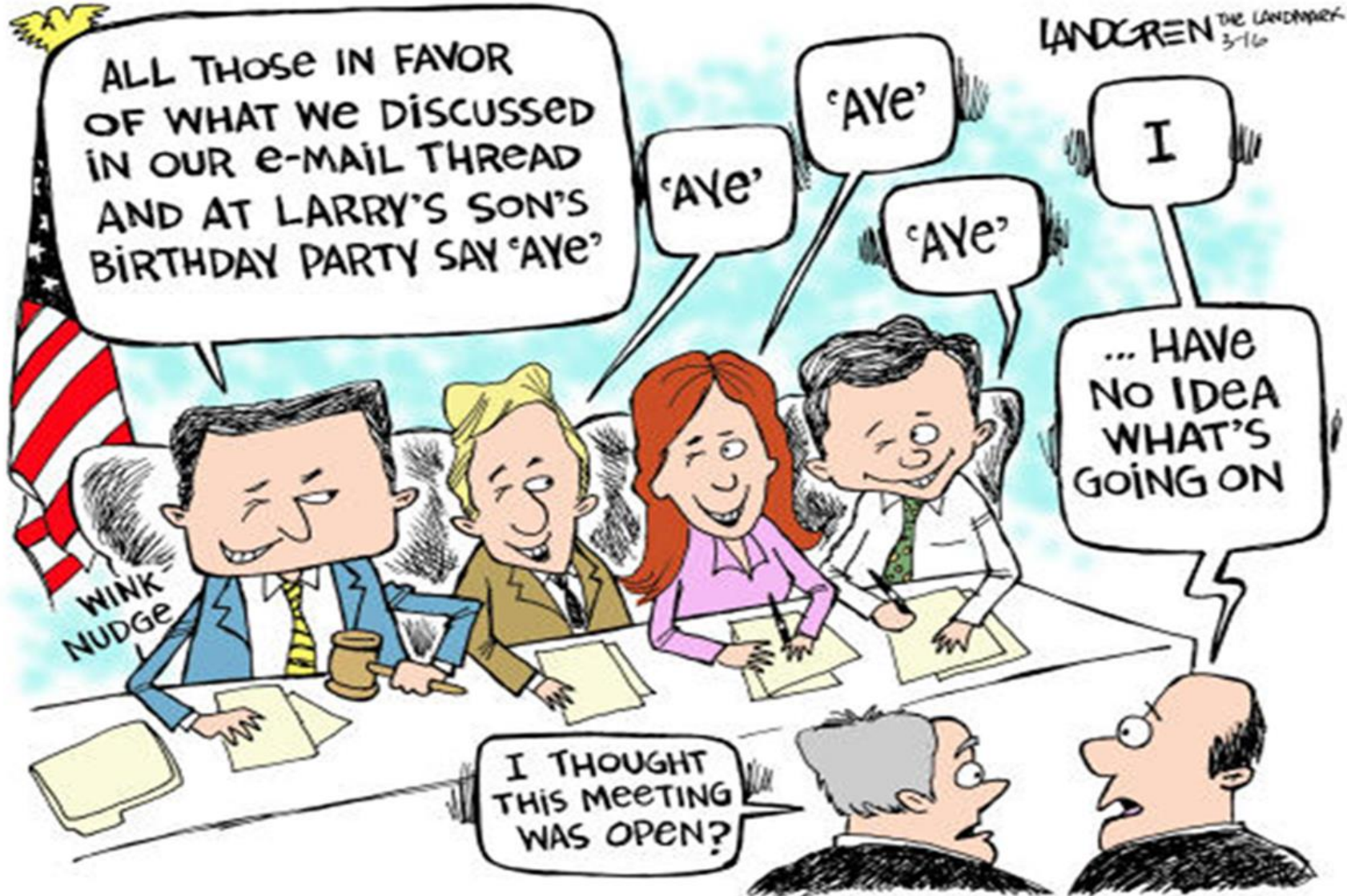
Discussion/deliberation between less than a quorum outside a public meeting for the purpose of circumventing the Open Meeting Law.

The use of e-mail, or other electronic communication, **INCLUDING SOCIAL MEDIA AND GROUP TEXTS**, among a quorum of members to discuss public matters is prohibited by the Open Meeting Law.

- Public does not always have access.



Legal Sphere





Legal Sphere

OPEN MEETING LAW

If found guilty of an Open Meeting Law violation, a court may:

- Levy a fine up to \$500 against the public official for each violation.
- The public official must personally pay the fine.

The public official is subject to removal from office.



Legal Sphere

PUBLIC HEARING PROCESS

- Chair can limit the amount of time for public debate, depending on the “circumstances and attendance”
- Chair should also remind public that comments will be no more than three minutes per person
- Those requiring interpretation services are allowed five minutes to speak
- If chair so chooses a person speaking for a group of 10+ may have no more than 15 minutes – Ask 10 to stand
- No ceding of one speaker’s time to another speaker



Legal Sphere

PUBLIC HEARING PROCESS

- Open the Public Hearing



Legal Sphere

PUBLIC HEARING PROCESS – Order of Presentation

1. Staff presentation (ten-minute time limit, except with specific Council permission to exceed this limit).
2. Applicant presentation, only upon applicant's specific request (up to ten minutes, except with specific Council permission to exceed this limit).
3. Council's questions to staff and applicant.



Legal Sphere

PUBLIC HEARING PROCESS – Order of Presentation (Cont.)

4. Public comment (three minutes for individual speakers, up to fifteen minutes for a representative of ten or more persons present at the meeting who have contributed their time to the representative), The ten persons will be requested to identify themselves by standing and those included in the group are precluded from making comments on the same topic, but may participate in any other agenda items up to the limit addressed in Section 7



Legal Sphere

PUBLIC HEARING PROCESS – Order of Presentation (Cont.)

5. Applicant's response, only upon applicant's specific request (5 minutes),
6. Staff's response (5 minutes),
7. Council deliberation and questions to staff and applicant.

After three minutes, Council can ask *relevant* questions to the speakers for clarification but not to debate or to argue.



Legal Sphere

PUBLIC HEARING PROCESS – Order of Presentation (Cont.)

- Close the Public Hearing
- Call for a motion, second, further discussion (if any) and vote



Legal Sphere

CONFLICT OF INTEREST

ARS §38-501 - 511

- Applies to:
 - All Public Officers (Including Councilmembers and Board and Commission Members)
 - All Public Employees



Legal Sphere

CONFLICT OF INTEREST

ARS §38-503

A public officer or employee who has, or has a relative with a ***substantial interest*** in a decision of the public agency or in any contract, sale, purchase or service to such public agency must disclose that interest in the official record and not vote on or participate in the decision or transaction.



Legal Sphere

CONFLICT OF INTEREST

ARS §38-502(11)

- "Substantial interest" means any nonspeculative pecuniary or proprietary interest, either direct or indirect, ***other than a remote interest.***
 - Generally, any interest that affects your, or your relative's, financial (pecuniary) or property (proprietary) interests



Legal Sphere

CONFLICTS OF INTEREST

- Three Questions to Identify a Conflict of Interest:
 - Will my decision have a positive or negative impact on my interests or that of my relatives?
 - Do I have a monetary or ownership interest in the matter?
 - Is my interest other than one of the designated remote interests?



Legal Sphere

CONFLICT OF INTEREST

- Remote interests are financial and property interests deemed to be so minor as not to trigger the reporting and non-participation requirements
- May still vote and participate in discussions



Legal Sphere

CONFLICT OF INTEREST

- Remote Interests - Examples:
 - “That of a nonsalaried officer of a nonprofit corporation.” ARS § 38-502(10)(a).
 - No problem being an unpaid director of the Boys and Girls club and voting to approve a new building project for the Boys and Girls Club when it comes before the Council.



Legal Sphere

CONFLICT OF INTEREST

- Remote Interests - Examples:
 - Recipient of municipal services under same terms and conditions as general public. ARS § 38-502(10)(g).
 - No problem for member Council to discuss and vote on new water and sewer rates.



CONFLICT OF INTEREST

- Remote Interests - Examples:
 - That of a member of a trade, business, occupation, profession, or class of persons consisting of at least ten members which is no greater than the interest of the other members of that trade, business, occupation, profession or class of persons. ARS § 38-502(10)(j).
 - No problem for member of P&Z who is a property owner to discuss and vote on zoning amendments that impact numerous (more than ten) other property owners.



Legal Sphere

CONFLICT OF INTEREST

- What if you have a substantial conflict?
 - Refrain from voting on or participating in the decision
 - Make the conflict of interest known in the official record
 - Leave the dais and the room
 - if meeting remotely as we are presently – leave the remote meeting and ask to be brought back in remotely after the discussion and decision is complete



Legal Sphere

CONFLICT OF INTEREST

- What if you aren't sure?
 - Ask me
 - If an official written legal opinion of a conflict is requested, my office drafts that legal opinion.
 - Written legal opinions on conflicts of interest are public record available upon request and are filed with the City Clerk



Legal Sphere

CONFLICT OF INTEREST

- Gifts and Bribes: Never use official position to secure, and never accept, any valuable thing or benefit that would not ordinarily accrue in the performance of official duties



Legal Sphere

CONFLICT OF INTEREST

- Public Perception and the Appearance of a Conflict
 - Consider your decision-making process
 - Is there sufficient appearance that your continued participation would harm your credibility or that of the Council?
 - Is the accusation reasonably grounded?
 - Does the accuser stand to gain something by your withdrawal from the discussion?



Legal Sphere

CONFLICT OF INTEREST

What if I do not declare a substantial conflict?

- Contracts are voidable
- Affected person(s) may sue
- Court may assess attorney fees and costs against the city and you personally



Legal Sphere

CONFLICT OF INTEREST

What if I do not declare a substantial conflict?

- Forfeiture of office
- Felony
 - A knowing or intentional violation of the Conflict of Interest Law
- Misdemeanor
 - A negligent or reckless violation of the Conflict of Interest Law



Legal Sphere

RULES OF PROCEDURE

“The Council shall determine its own rules and order of business,....”

(Charter Article II, Section 14)

Flagstaff City Council Rules of Procedure

-- last updated November 2, 2021



Legal Sphere



RULES OF PROCEDURE

- Rule 2

- Incorporates conflict of interest laws we just reviewed and states a clear requirement for Council to comply with same while serving in these positions of trust.

- Rule 3

- Sets forth specific dates, times and locations of certain meetings
 - Regular Meetings
 - Special Meetings
 - Work Session
 - Process for changing date/time/location of any meetings



Legal Sphere

RULES OF PROCEDURE

- Rule 4
 - Gives instructions on the preparation of the agendas
- Rules 4.02 and 4.03 govern the FAIR process
 - Definition: Future Agenda Item Request - FAIR
 - FAIR raised with City Manager or during To/From in City Council Meetings
 - Three minimum to place in queue for discussion - Staff 8 hours
 - At the Work Session where the FAIR is discussed, 4+ members of Council must support the FAIR to allow it to continue



Legal Sphere

RULES OF PROCEDURE – Removal of a FAIR

- Under Rule 4.03
 - A Councilmember who has previously requested a F.A.I.R. item may have it removed up until the time it appears on the agenda as a F.A.I.R. item.
 - If an item is removed prior to it appearing on an agenda, the City Manager will notify the Council of its removal at the next Council Meeting.
 - If another Councilmember wants to retain the item, it shall retain its then-current place in the queue.
 - Once on the agenda, the request to remove must be made during a public meeting.



Legal Sphere

- Rule 5

- Governs the order of business in which Council discusses and decides upon various items
 - Includes Consent and Routine in first portion of the meeting
 - Also includes public hearings and regular business during latter portion of the meeting

- Rule 6

- Sets forth Mayor as the Chair of Council Meetings
- Also the used recently to appoint Vice Mayor (i.e. the candidate receiving the highest number of votes for Council in most recent general election)



Legal Sphere

RULES OF PROCEDURE

- Rule 7
 - Provides rules for order and decorum among Council, staff and citizens participating in Council meetings.
 - With our current remote meetings this is less of an issue



Legal Sphere

RULES OF PROCEDURE

- Rule 8

- Provides process for appeal from a decision of the Chair
 - Any Councilmember may appeal to the Council from a ruling of the Chair. If the appeal is seconded, the member making the appeal may briefly state his or her reason for the same, and the Chair may briefly explain the Chair's ruling. There shall be no debate on the appeal, and no other member shall participate in the discussion. The Chair shall then put the question, "Shall the decision of the Chair be sustained?" If a majority of the members present vote "aye", the ruling of the Chair is sustained; otherwise, it is overruled.



Legal Sphere

RULES OF PROCEDURE

- Rule 9
 - Governs public participation
 - Time limits for citizens who participate
 - Public hearing protocols - already discussed above
- Rule 10
 - Gives specific details on motions, amendment to motions, withdrawal of motions, etc.
 - We will discuss more in one-on-one discussion, and as we go in real time during meetings



Legal Sphere

RULES OF PROCEDURE

- Rule 11
 - Miscellaneous items
 - Prior staff review/approval of all agenda items
 - 9:30 rule
 - Robert's Rules of Order
 - general applicability, not strict adherence
 - Citizen Petitions
 - Provisions on photography/video and security



Touching on Policy Sphere

- High-level pass over Policy Sphere



Policy Sphere

- The Role of Council
 - Policy Making
- Engagement with Staff
 - Allocation of Resources
 - Delegation of Duties
 - Responding to Citizens
- State and Federal Advocacy
- Meeting Protocol
 - Time Management
 - CCR & F.A.I.R. Items



Policy Sphere

- The Role of Council:
 - The Council's Primary Role is Setting Policy
 - Reactive vs Proactive
 - Legislative Agenda
 - Passing Ordinances and Resolutions
 - Formulation of Community Priorities



Questions?