



**City Council Work Session**  
City Hall - Canyon Trails 1 & 2  
1900 N. Civic Square  
Goodyear, AZ 85395  
**Monday, January 13, 2025**  
**5:00 PM**

Mayor  
Joe Pizzillo

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Vice Mayor  
Wally Campbell

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Councilmember  
Brannon Hampton

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Councilmember  
Laura Kaino

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Councilmember  
Vicki Gillis

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Councilmember  
Benita Beckles

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Councilmember  
Trey Terry

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**PROCEDURES**

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Goodyear City Council and to the general public that the Council of the city of Goodyear will hold a meeting open to the public. Public body members of the city of Goodyear will attend either in person or by telephone conference call and/or video communication. The Goodyear City Council may vote to go into Executive Session, pursuant to A.R.S. § 38-431.03(A)(3), which will not be open to the public, to discuss certain matters. Meetings are conducted in accordance with the City Council Meetings Council Rules of Procedure adopted by Resolution No. 2018-1879.

THE CITY OF GOODYEAR ENDEAVORS TO MAKE ALL PUBLIC MEETINGS ACCESSIBLE TO PERSONS WITH DISABILITIES. With 48-hour advance notice, special assistance can be provided for sight and/or hearing-impaired persons at this meeting. Reasonable accommodations will be made upon request for persons with disabilities or non-English speaking residents. Please call the City Clerk (623) 882-7830 or Arizona Relay (TDD) 7-1-1 to request an accommodation to participate in this public meeting.

Si necesita asistencia o traducción en español, favor de llamar al menos 48 horas antes de la reunión al (623) 882-7830.



City Clerk's Office: 1900 N. Civic Square, Goodyear, AZ 85395 (623) 882-7830  
[www.goodyearaz.gov/cityclerk](http://www.goodyearaz.gov/cityclerk)  
City Council Meeting Live Broadcast: <https://www.facebook.com/goodyearazgov/videos>

**CALL TO ORDER**

**ROLL CALL**

**AGENDA ITEMS FOR DISCUSSION**

ALL ITEMS LISTED ARE FOR DISCUSSION ONLY. NO ACTION CAN NOR WILL BE TAKEN.

**1. OVERVIEW OF CITY COUNCIL MEETINGS, PROCEDURES AND GUIDELINES**

**Summary**

Council will receive a presentation providing an overview of key topics regarding City Council Meeting Rules of Procedure, Open Meeting Law requirements, Ethics and Gift Declaration procedures, Governance Relations System, and Council support. (Wynette Reed, City Manager; Jasmine Pernicano, Acting City Clerk; Roric Massey, City Attorney; and Jenna Goad, Assistant to the City Manager)

**2. 2025 STATE AND FEDERAL LEGISLATIVE AGENDA**

**Summary**

Staff will provide a recap of the 2024 Legislative Session and present the 2025 State and Federal Legislative Agenda. (Ginna Carico, Chief Government Affairs Officer & Haley Rahlf, Government Relations Coordinator)

**ADJOURNMENT**

**POSTING VERIFICATION**

This agenda was posted on 01/08/2025 at 5:03 p.m. by VM.

ITEM #: 1.  
DATE: 01/13/2025  
AI #:2424



## **CITY COUNCIL ACTION REPORT**

**SUBJECT: OVERVIEW OF CITY COUNCIL MEETINGS, PROCEDURES AND GUIDELINES**

**STAFF PRESENTER(S):** Wynette Reed, City Manager; Jasmine Pernicano, Acting City Clerk; Roric Massey, City Attorney; and Jenna Goad, Assistant to the City Manager

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### **Summary**

Council will receive a presentation providing an overview of key topics regarding City Council Meeting Rules of Procedure, Open Meeting Law requirements, Ethics and Gift Declaration procedures, Governance Relations System, and Council support. (Wynette Reed, City Manager; Jasmine Pernicano, Acting City Clerk; Roric Massey, City Attorney; and Jenna Goad, Assistant to the City Manager)

### **FISCAL IMPACT**

This item supports the onboarding of the newly seated Council and serves as a refresher training for existing Councilmembers. There is no associated fiscal impact.

### **BACKGROUND AND PREVIOUS ACTIONS**

As the new City Council is seated, staff will provide an overview of the key documents that establish the framework for Council operations, including procedural guidelines, ethical standards, and governance systems that promote effective, transparent, and accountable leadership. This overview also serves as a refresher training for existing Councilmembers.

Additionally, staff will highlight the support services available to assist the City Council throughout their tenure, ensuring they have the resources needed to fulfill their roles effectively.

### **STAFF ANALYSIS**

Below is an outline of the documents attached to the Council Action Report that will be discussed during the Work Session:

Attachment A: The Council Meeting Rules of Procedure, first adopted by Council in 2000, provide the framework for conducting efficient and transparent City Council meetings. The most recent version was adopted on July 9, 2018, with a minor amendment on October 7, 2024. This presentation will highlight updates to the document, which is scheduled for Council adoption on January 27, 2025.

Attachment B: Chapter 7 of the Arizona Attorney General Handbook provides comprehensive guidance on Open Meeting Law, ensuring Council compliance with state transparency requirements.

Attachment C: The Goodyear Ethics Handbook for Elected and Appointed Officials, Employees, and Volunteers outlines the ethical standards and expectations that uphold public trust and integrity in city governance. It was first approved by the Council on September 28, 2009, and later updated on February 11, 2016.

Attachment D: The Governance Relations System (GRS), developed by the Bridge Group for Council-Manager forms of governance, clarifies the roles, responsibilities, and expectations of the City Council, City Manager, and the organization, fostering collaboration and civic engagement.

Attachment E: Job descriptions for the Executive Assistant, Council Assistants, and Assistant to the Mayor detail the support services provided to the Office of the Mayor and Council, highlighting the resources available to assist with their roles and responsibilities.

These attachments collectively serve as essential tools to support the Council in navigating their responsibilities and ensuring effective governance.

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### **Attachments**

Attachment A - Council Meeting Rules of Procedures draft

Attachment B - Goodyear Ethics Handbook for Elected and Appointed Officials, Employees and Volunteers

Attachment C - Arizona Attorney General Chapter 7

Attachment D - Governance Relations System

Attachment E - Job Descriptions

Presentation

City of Goodyear,  
Arizona  
City Council Meetings  
Rules of Procedure



Adopted by Resolution No.

CITY OF GOODYEAR, ARIZONA  
CITY COUNCIL MEETINGS  
RULES OF PROCEDURE

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## **PURPOSE**

These Rules of Procedure are to provide for the timely and orderly progression of Council meetings, and to comply with the Charter of the City of Goodyear, Article II, Section 19, which states: "The Council shall by ordinance determine its own rules and order of business and agenda requirements..."

## **STATEMENT OF POLICY**

**It is the policy of the City of Goodyear (City) to comply with all rules, regulations, charter, codes and statutes pertaining to open meetings.**

## **SECTION 1. RULES OF PROCEDURE/AUTHORITY**

### **1.1 PARLIAMENTARIAN**

The City Attorney, or designee, shall serve as Parliamentarian for all City Council Meetings.

## **SECTION 2. PRESIDING OFFICER**

### **2.1 PRESIDING OFFICER**

As provided by the City Charter, the Mayor, or in the Mayor's absence the Vice-Mayor, is the Presiding Officer of all meetings of the City Council. In the absence or disability of both the Mayor and the Vice-Mayor, the meeting shall be called to order by the City Clerk, whereupon the City Clerk shall immediately call for the selection of a temporary Presiding Officer.

### **2.2 ROBERT'S RULES**

The Council meetings will generally follow Robert's Rules of Order. The Presiding Officer, or Council by consensus, may suspend strict observance of these Rules of Procedure, other policies and procedures, and any applicable provision of Robert's Rules for the timely and orderly progression of the meeting. In the event of a conflict between these Rules of Procedure and Robert's Rules of Order, these Rules of Procedure shall govern.

## **SECTION 3. MEETINGS**

### **3.1 MEETING DATES**

No later than November 1 of each year, the City Clerk shall create a Council Meeting Calendar and submit it to Council for review and approval. The Council Meeting Calendar will be a listing of all expected Council meeting dates for the following calendar year. Meeting dates for Regular Meetings, Work Sessions and Special Meetings may be added or cancelled throughout the year to accommodate the business of the city.

Meeting times are established upon Council adoption of the Council Meeting Calendar.

Meeting locations will be on the agendas, which are posted to the City's website.

### **3.2 REGULAR MEETINGS**

- A) The Council will generally hold Regular Meetings each month at City Hall Council Chambers located at 1900 N Civic Square, Goodyear, AZ 85395. Meetings are held for the purpose of discussion and/or action of the Council on various issues deemed necessary to further the business of the City. These meetings may provide for "Public Comments/Appearances from the Floor."
- B) In order to accommodate the business of the city, the City Clerk may adjust the date, time and/or location of any meeting, Councilmember schedules permitting, as long as 24-hours notice is given on the City's website, and the date, time, and location are listed in the published agenda.
- C) When the day for a Regular Meeting of the Council falls on a legal holiday, there will be no meeting on that date.

### **3.3 SPECIAL MEETINGS**

- A) Special Meetings may be called pursuant to the City Charter for the purpose of timely conducting the city's business. The City Attorney, City Manager or City Clerk shall establish the date and time of the Special Meeting and notify the Mayor and Council.
- B) The City Charter allows for a Special Meeting to be called by the Mayor or by three Councilmembers. If a Councilmember would like to call a Special Meeting, the Councilmember should contact the City Manager or the City Clerk, who will then contact the other Councilmembers to determine that the required number has been met.

- C) Special Meetings are held for the purpose of presentations, discussion, or action of the Council on various issues as deemed necessary to further the business of the City. Special Meetings shall not provide for "Public Comments/Apearances from the Floor" or for the Pledge of Allegiance or invocation, unless the Special Meeting is taking the place of a Regular meeting.

### **3.4 WORK SESSIONS**

- A) Members of the Council may convene Work Sessions at a time, date, and location noticed in the published agenda to conduct the business of the city.
- B) Work Sessions are held for the purpose of presentations and discussions on such issues that require more in-depth consideration of the Council than may be possible at a Regular Meeting. No formal action of the Council may be taken at such meetings, other than general consensus or conveying direction to City staff for further action. These meetings shall not provide for "Public Comments/Apearances from the Floor" or for the Pledge of Allegiance or invocation.
- C) Work Session items may be included on a Regular Meeting or Special Meeting agenda to ensure items are reviewed timely.

### **3.5 EXECUTIVE SESSIONS**

- A) As provided in A.R.S. 38-431 (2) an Executive Session is defined as; "a gathering of a quorum of members of a Public Body from which the public is excluded for one or more of the reasons prescribed in section 38-431.03." It states that "Only individuals whose presence is reasonably necessary in order for the Public Body to carry out its Executive Session responsibilities, may attend the Executive Session." The City Attorney will determine if individuals will be permitted to attend telephonically or by other electronic means. Executive Sessions may be called as necessary to conduct the business of the city.
- B) Executive Sessions may be added to a Work Session, Regular Meeting or Special Meeting agenda. If the Executive Session is the only item, it will be placed on a Special Meeting agenda.

### **3.6 RECESSED MEETINGS**

Any meeting may be recessed to a date, time, and place certain, but not beyond the next Regular Meeting. Once recessed, the meeting may not be reconvened except at the date, time, and place provided for when recessed.

### **3.7 EMERGENCY MEETINGS**

As provided for in Arizona Revised Statutes, the Mayor and Council may call an Emergency Meeting to discuss or act on an unforeseen issue where time is of the essence and sufficient time does not permit the required 24-hours posting notice before the meeting. Notice of an Emergency Meeting of the Mayor and Council will be posted no later than 24-hours following an Emergency Meeting. The Notice will include the Agenda and a brief but complete description of the nature of the Emergency. Emergency Meetings shall not provide for "Public Comments/Appearances from the Floor." The Minutes of the meeting shall reflect the reason for the Emergency Meeting.

### **3.8 MEETINGS TO BE PUBLIC**

- A) With exception of Executive Sessions, all Regular, Special, and Work Session Meetings shall be open to the public. The Council shall vote to call an Executive Session in open session; however, any Executive Session discussions are not open to the public.
- B) All public meetings may be recorded or photographed by means of audio, video or photographic equipment provided that there is no interference in the orderly conduct of the meeting, and that said equipment is placed in designated locations to not impede the ingress or egress of those attending the meeting.
- C) Public comment ("Public Comments/Appearances from the Floor") is not taken at Work Sessions, Emergency Meetings, or Special Meetings, unless the Special Meeting has "Public Comments/Appearances from the Floor" listed on the posted Agenda or unless the called Special Meeting includes a public hearing or business item on the Agenda. Time permitting, public comment may be taken at Regular Meetings.

### **3.9 MINUTES OF COUNCIL MEETINGS**

All requirements relating to the Minutes of Council Meetings shall be in conformance to the requirements set forth below and in state law:

- A) The City Clerk, or designee, shall attend all Regular Meetings, Special Meetings, Work Sessions, and Emergency Meetings for the purpose of taking minutes and may arrange for the audio and/or video

recording of the meeting. The City Clerk may attend Executive Sessions, when necessary.

- B) Written Action Minutes shall be taken so that a brief accounting of the issues discussed, and actions taken is compiled and entered into the permanent record of the City and kept on file in the Office of the City Clerk. All public meetings may be recorded by means of audio or video technology. Recordings of public meetings will be retained for a period of time in accordance with the current State of Arizona Records Retention and Disposition Schedules.
- C) All Minutes of Council Meetings are deemed to be Public Records, with the exception of Executive Sessions, which, while they fall under the definition of, and are considered public records by State Statute, are deemed confidential and are only available under limited conditions or by Court Order. Minutes of Council Meetings, or the recordings of all open public meetings of the Council shall be available on the City's website by 5:00 p.m. on the third working day following each meeting, or as provided by Arizona Revised Statutes.
- D) Minutes of Executive Sessions shall be confidential, are maintained and secured by the City Clerk, and may be accessed only as provided by Arizona Revised Statutes and under strict oversight of the City Attorney.
- E) Minutes and recordings of all Meetings are made available through the City's website or by public records request, except Executive Sessions.

## **SECTION 4. NOTICE AND AGENDA**

### **4.1 POSTING AND DISTRIBUTION OF NOTICES AND AGENDAS**

- A) The City Clerk, or designee, shall prepare all public meeting notices and agendas of the Council, and shall ensure posting of the meeting notices and agendas not less than 24-hours before the date and time set for said meetings in accordance with Arizona Revised Statutes.
- B) The City Clerk shall ensure that links are provided to the Mayor and Council, City Manager, City Attorney and department directors for all City Council meeting notices and Agendas, and any documentation provided for said meeting, not less than 24-hours prior to the meeting.
- C) Meeting notices and Agendas shall be posted on the City's website, and any other location that provides additional notice to the public, as established by policy of the Council.
- D) The Council may, by motion, direct and authorize the City Clerk to post or publish notices of meetings of the Council in additional locations to better inform the public.
- E) The City Clerk, not later than November 1 of each year, shall post the calendar of the Council Meetings for the following calendar year, stating the date, time, and place of the meetings, and where copies of the agenda may be obtained.

### **4.2 AMENDED AGENDAS**

The City Clerk, or designee, may amend a published Agenda, but no less than 24-hours prior to the designated meeting, and only upon receipt of direction from the City Manager, City Attorney or Mayor, or to correct errors. Amended Agendas will indicate the date of the amendment as well as the reason for the amendment.

## **SECTION 5. AGENDA CONTENTS**

### **5.1 ORDER OF BUSINESS**

The Agenda shall be sequentially numbered by item with a brief description of business Agenda items which shall be considered and the recommended action. The City Clerk with direction by the City Manager shall determine the order of business on the agenda.

### **5.2 ACCESSIBILITY**

All Agendas will have the following statement placed at the bottom of the Agenda:

The City of Goodyear is committed to providing access to all meetings for all members of the community. For anyone requesting special accommodations, please contact the City Clerk's office at 623-882-7830 or Arizona Relay (TDD) 7-1-1. Requests should be made as early as possible but must be made at least two business days prior to the start of the meeting. The Presiding Officer, or the City Council by consensus, may consider items out of sequence from the printed agenda.

#### **POSTING VERIFICATION**

This agenda was posted on DATE at TIME by xx. (initials of person posting the agenda)

### **5.3 ITEMS TO BE TAKEN IN ORDER**

- A) The Presiding Officer, or the Council by consensus, may consider Items out of sequence from the printed Agenda.
- B) Action may be taken on all items listed for action on the Agenda. In the event of an emergency, action may be taken on items not listed on the Agenda; however, the subsequent action must be noticed in accordance with the Arizona State Open Meeting Law.

### **5.4 ROLL CALL/ATTENDANCE**

The Presiding Officer shall acknowledge those Councilmembers present and ask for a motion to excuse or not excuse those Councilmembers absent for Regular Meetings and Special Meetings. For Work Sessions, the Presiding Officer shall note who is present and who is not. For all meetings, a quorum must be reached before continuing with items on the Agenda. A quorum of the Council is considered to be four (4).

## **5.5 COMMUNICATIONS**

Staff may communicate information to the City Council through a brief (up to 10 minutes) presentation, if needed, to inform or prepare them for upcoming items, community activities, or recognize achievements, subject to City Manager approval.

## **5.6 PUBLIC COMMENTS/APPEARANCES FROM THE FLOOR/PUBLIC HEARINGS**

- A) At the pleasure of the Mayor and Council, individuals may address the Council on any subject pertaining to or related to City business and within the jurisdiction of the Council.
- B) Call to the Public / Non-Agenda Items: Presentation of petitions, or public comments on Non-Agenda issues are heard under "Public Comments/Appearances from the Floor". All residents and interested parties will be limited to a maximum of three minutes to address the Council on a Non-Agenda item. The time limit may be waived at the discretion of the Presiding Officer. The Presiding Officer may also determine that in the interest of time, less time will be allotted to the Call to the Public and may reduce the number of minutes allowed per speaker. In order to comply with Arizona State Open Meeting Law, the Council may not discuss any issue not listed on the Agenda, except to thank the speaker, respond to personal criticism, request the item be placed on a future agenda, or direct City staff to address appropriately.
- C) Call to the Public / Agenda Items: Public comments on Agendized items can be made at the time each item is heard. All interested parties will be limited to a maximum of three minutes to address the Council. At the discretion of the Presiding Officer, this time may be adjusted. Applicants are limited to a total of ten (10) minutes for any presentation.
- D) All residents and interested parties wishing to speak before the Council shall fully complete a Speaker Card and, if possible, submit the card to the City Clerk, or designee, prior to the meeting being convened. These cards will be retained by the City Clerk in the official files according to retention schedules established by the Arizona State Library and Archives.
- E) The purpose of all public comments is to provide information and the speaker's views for Council consideration. It is not appropriate for the speakers to question directly, or debate the matter under consideration with City Staff, other speakers, the audience, or members of the Council. All comments shall be addressed through the Presiding Officer. For items on the agenda, after being

recognized by the Presiding Officer, Council may question the speakers, the applicant, or the applicant's representatives or City staff. Except when answering a direct question from a Councilmember, all remarks will be addressed to the Council as a whole, and not to individual Councilmembers.

- F) Proper decorum must be observed by members of the Council, by speakers in providing testimony and remarks, and by the audience. In order to conduct an orderly meeting, the Presiding Officer shall maintain control of the Meeting, and require speakers and the audience to refrain from abusive or profane remarks, disruptive outbursts, applause, protests, or other conduct which disrupts or interferes with the orderly conduct of the meeting. Public comments for specific agenda items, must pertain to that agenda item. Engaging in such conduct and failing to cease such conduct upon request of the Presiding Officer, will be grounds for ending a speaker's time at the podium or, at the direction of the Presiding Officer, for removal of any disruptive person from the meeting room.
- G) The Presiding Officer may limit the number of speakers heard on non-Agenda or Agenda topics at any single meeting to allow the meeting to proceed and end in a timely manner.
- H) The Presiding Officer may reduce the number of minutes allowed for each speaker.
- I) Exhibits, letters, petitions, and other documentary items presented or shown to the Council on a Public Hearing item become part of the record of the Public Hearing and a copy should also be submitted to the City Clerk.
- J) Any materials may be submitted electronically before the meeting to [gyclerk@goodyearaz.gov](mailto:gyclerk@goodyearaz.gov) or ten collated sets of written or graphic materials should be provided by the speaker prior to the commencement of the meeting to allow for distribution to the Council, key City staff, and a copy for the City Clerk to include in the public record of the hearing. Reduced copies (8 ½" X 11") of large graphic exhibits should be provided as part of the sets of materials for distribution as provided above. (Materials will be provided to the Council (7), City Attorney (1), City Manager (1), and City Clerk (1).)
- K) This requirement may be waived for signed petitions submitted by neighborhoods or other resident groups, although these groups are required to present the originals to the City Clerk for the record and are encouraged to provide copies as set forth above.

- L) At the conclusion of any public comments for non-agenda items, the Mayor or any Councilmember may take any or all of the following actions:
- Respond to personal criticism
  - Ask City staff to review matter
  - Ask that a matter be put on a future Agenda

## **5.7 CONSENT AGENDA**

- A) The Consent Agenda includes items that are of such a nature that discussion may not be required or are items that have been previously studied by Council and/or a separate city advisory commission such as the Planning and Zoning Commission. These items may be adopted collectively in a single motion.
- B) There is no detailed discussion on items listed under the Consent Agenda, unless a member of the Council requests that an item or items be removed from the Consent Agenda for discussion. Council may ask a question about an item on the Consent Agenda without removal of the item from the Consent Agenda.
- C) The Mayor shall consider a motion and a second from the Council to approve the Consent Agenda matters and the Mayor and Council shall vote upon all matters contained within the Consent Agenda by a single vote of all members of Council present at the meeting and entitled to vote.
- D) The public may speak on a Consent Agenda item by submitting a speaker card to the City Clerk. If a speaker card is submitted on a Consent Agenda item, that item may be removed from the Consent Agenda, and acted on individually.
- E) Items removed from the Consent Agenda are considered in their normal sequence as listed on the Agenda, unless called out of sequence as provided under Section 5.3.

## **5.8 PUBLIC HEARINGS**

Public Hearings will be grouped under one heading and will identify the following steps that will take place for each item.

- A) Open the Public Hearing  
The Presiding Officer will announce the matter is set forth for a Public Hearing and will open the Public Hearing.
- B) City staff Presentation

The Presiding Officer will ask City staff to provide a presentation outlining the elements of the request and the City staff recommendation.

- C) Applicant Presentation (if applicable)  
The Presiding Officer will then ask the Applicant, or Applicant's representative, if they wish to speak on their Application. The Applicant will have a total of ten (10) minutes to present, at the discretion of the Presiding Officer. In the interest of time, the Presiding Officer may ask that the Applicant not make their presentation until the Council discussion time.
- D) Public Comments  
The Presiding Officer will ask if there are speaker cards and if anyone would like to speak. Anyone wishing to speak to the Council during this time must complete a Speaker Card and submit it to the City Clerk prior to the meeting. The Presiding Officer may call to the audience for any additional speakers. Speaker comments are limited to three minutes per speaker. The Presiding Officer may adjust the time to speak on any given item, based on the number of speakers or for other considerations. Only in-person comments received during the Public Hearing shall be noted for the record.
- E) Close the Public Hearing  
The Presiding Officer will close the Public Hearing.
- F) Quasi-judicial hearings shall be conducted in accordance with the principles of due process, and the Parliamentarian shall advise the Council in this regard.

## **5.9 BUSINESS**

- A) At the time each Business Item is presented to Council, City staff will present the item. An Applicant, if applicable, may speak after the City staff presentation. The Presiding Officer will then call for public comments.
- B) After the call for public comments, the Presiding Officer will call for a motion and second, if applicable, and ask if Council wishes to discuss the issue. Council may then proceed to discuss the matter and may ask City staff or the Applicant to clarify any statements previously made.
- C) Upon the conclusion of discussion, the Presiding Officer will call for action on the motion for the Business item.

## **5.10 INFORMATION ITEMS**

Information items may be presented in the form of comments, commendations, reports on current events and presentations by Mayor, Councilmembers, or the City Manager. The Council may not propose, discuss, deliberate or take any legal action on the information presented, pursuant to A.R.S. 38-431.02.

1. Reports from the Mayor and Council
  - This may include current events and activities as well as requests for information or future agenda items.
2. Report from the City Manager
  - This may include updates from events, City staffing updates, update on legislative issues, clarification on items being requested by Council, and Manager's update on Council related matters.

## **5.11 EXECUTIVE SESSION**

If an Executive Session is needed on the night of a Council Meeting, it may be added to the meeting Agenda. Executive Sessions are provided for in Section 3.5 above.

The following will be included when an Executive Session has been added to an agenda:

- ADJOURNMENT OF EXECUTIVE SESSION
- RECONVENE MEETING
- CONTINUATION OF BUSINESS (if there is additional business to hear)

## **5.12 ADJOURNMENT**

The Public Meetings of the Mayor and Council may be adjourned as follows:

Unanimous Consent. The Presiding Officer shall formally adjourn the meeting by saying: "There being no further business to come before the Council, the meeting is adjourned."

## **5.13 PLACING ITEMS ON THE AGENDA**

Items may be placed on an agenda for discussion and/or approval of the Council.

- A) City Councilmembers may request an item be placed on an agenda by submitting a written request to the Mayor, City Manager or City Clerk. This method requires two additional members of the Council to support the placement of the item on a future Council agenda.

- B) The Mayor may request an item be placed on the agenda by submitting the appropriate documentation to the City Clerk or the City Manager.
- C) The City Manager and City Attorney may place items on the agenda.

For Executive Session the following process will be used to place items on the agenda.

- A) The City Manager or City Attorney will notify the City Clerk that an item needs to be placed on an Executive Session agenda.
- B) Three Councilmembers may request an item be heard, in writing to the Mayor, who will forward the request to the City Clerk.
- C) The Mayor may request an item be heard by notifying the City Manager, City Attorney and/or the City Clerk.
- D) The City Clerk will send any requests to the City Attorney, verifying compliance with Arizona Revised Statutes, specifically, 38-431.03.
- E) The City Clerk may confer with the City Attorney regarding the appropriate language to be used on the agenda.

## **SECTION 6. PROCEDURES FOR CONDUCTING THE MEETING**

### **6.1 CALL TO ORDER**

The meeting of the Council shall be called to order by the Presiding Officer, (the Mayor or the Vice-Mayor in the absence of the Mayor). In the absence of both the Mayor and Vice-Mayor, the meeting shall be called to order by the City Clerk; whereupon the City Clerk shall immediately call for the selection of a temporary Presiding Officer.

### **6.2 PARTICIPATION OF PRESIDING OFFICER**

The Presiding Officer may debate as the Chair of the meeting, subject only to such limitations of debate as are imposed on all Councilmembers, and the Presiding Officer shall not be deprived of any of the rights and privileges of a Councilmember. However, the Presiding Officer is primarily responsible for the conduct of the meeting. If the Presiding Officer desires to personally engage in extended debate on questions before the Council, or to either move or second a motion, the Presiding Officer should turn the Chair over to the Vice-Mayor, or another Councilmember until action on the issue under discussion has been completed.

### **6.3 QUESTION TO BE STATED**

The Presiding Officer shall verbally restate each question immediately prior to calling for discussion and/or the vote. Following the vote, the Presiding Officer shall verbally announce whether the question carried or was defeated. The Presiding Officer may also publicly state the effect of the vote for the benefit of the audience before proceeding to the next item of business. Formal votes shall not be taken at Work Sessions or in Executive Sessions.

### **6.4 MAINTENANCE OF ORDER**

The Presiding Officer is responsible for the maintenance of order and decorum at all times. No person is allowed to speak unless that person has first been recognized by the Presiding Officer. All questions and remarks shall be addressed to the Presiding Officer.

### **6.5 VIRTUAL PARTICIPATION**

The Attorney General's Office of the State of Arizona permits participation in a Council meeting by electronic means.

- A) When a member of the Council is unable to attend a meeting in-person and desires to participate in the meeting by telephone, computer and/or videoconference, the Councilmember shall be permitted to do so provided the Councilmember gives the City Clerk,

or designee, notice at least twenty-four (24) hours prior to the meeting.

- B) The meeting cover sheet or Agenda shall include the following: "Councilmembers of the City of Goodyear will attend either in person or virtually."
- C) The City Attorney may on a case-by-case basis determine if there is a need for Executive Session participants to participate using electronic means. (i.e., teleconference, videoconference, etc.)
- D) Facilities will be used at the meeting to permit the public to observe and hear all virtual communications during Work Sessions, Special Meetings and Regular Meetings. Under no circumstances will the public be permitted to listen to Executive Sessions.
- E) The minutes of the meeting shall clearly set forth which Councilmembers are present in-person, and which are present by other means.

## **SECTION 7. GENERAL RULES FOR DECORUM AND ORDER**

### **7.1 ORDER AND DECORUM**

- A) Councilmembers: Any Councilmember desiring to speak shall address the Presiding Officer and, upon recognition by the Presiding Officer, may speak.
- B) Employees: City staff shall observe the same rules of procedure and decorum applied to members of the Council. The City Manager shall ensure that all City employees observe such decorum. Any City staff members, including the City Manager, desiring to address the Council or members of the public shall first be recognized by the Presiding Officer.
- C) Public: Members of the public attending Council meetings shall observe the same rules of order and decorum applicable to the Council. Unauthorized remarks or demonstrations from the audience, such as applause, stomping of feet, whistles, boos, yells, and/or other demonstrations shall not be permitted by the Presiding Officer, who may direct a police officer to remove such offender/s from the room.

### **7.2 ENFORCEMENT OF DECORUM**

Proper decorum is to be maintained during all meetings by the Council, City staff and guests. It is the responsibility of the Mayor, or any person acting as Presiding Officer of the meeting, to ensure compliance. A police officer or other City staff member present at the meeting may be empowered and directed by the Presiding Officer to remove from the meeting any person whose conduct is disorderly or disruptive.

### **7.3 POINTS OF ORDER**

The Presiding Officer shall determine all Points of Order, as defined by Robert's Rules, subject to the right of any Councilmember to appeal to the whole Council. If any appeal is taken, the question (motion) shall be: "Shall the decision of the Presiding Officer be sustained?" In which event, following a second, a majority vote shall govern, and conclusively determine such question of order.

### **7.4 PROCEDURES IN ABSENCE RULES**

In the absence of a rule herein to govern a point or procedure, Robert's Rules of Order, most recent edition, shall be used as a guide.

## **7.5 RULINGS OF PRESIDING OFFICER FINAL, UNLESS OVERRULED**

In presiding over Council Meetings, the Presiding Officer shall decide all questions of interpretation of these rules, points of order, or other questions of procedure requiring rulings. The Presiding Officer may confer with the Parliamentarian on such decisions and interpretations.

## **7.6 APPEAL THE RULING OF THE PRESIDING OFFICER**

As applies to Councilmembers, any such decision or ruling of the Presiding Officer shall be final. However, immediately following the Presiding Officer's ruling, as it applies to other Councilmembers, a motion and second to appeal the ruling can be made, and the ruling can be overridden or suspended by a majority vote of the Councilmembers present and voting. If not appealed, the Presiding Officer's ruling shall be binding and legally effective for purposes of the matter under consideration.

## **SECTION 8. ADDRESSING THE COUNCIL**

### **8.1 PERSONS AUTHORIZED TO APPROACH COUNCIL DAIS AREA**

During a Council Meeting, no person except City Staff shall be permitted within the area in front of the Council dais without the invitation or consent of the Presiding Officer.

### **8.2 MANNER OF ADDRESSING THE COUNCIL**

Any member of the public desiring to address the Council shall proceed to the podium after having been recognized by the Presiding Officer. There shall be no loud vocalization (shouting or calling out) from the seating area of the Council Chamber. At the podium, the speaker shall clearly state their name and if they are a resident of Goodyear for the record. Speaker cards may include the speaker's contact information, but due to privacy concerns, speakers are not required to state their physical address.

With two business days advance notice, special assistance for reasonable accommodations can be provided upon request. Please contact the City Clerk to request an accommodation to participate in any public meeting. Reasonable accommodations will be made upon request for persons with disabilities or non-English speaking residents.

### **8.3 ADDRESSING THE COUNCIL AFTER MOTION IS MADE**

After the motion has been made, or after a Public Hearing has been closed, no member of the public shall address the Council without first securing permission from the Presiding Officer.

## **SECTION 9. MOTIONS**

### **9.1 GENERAL INFORMATION ON MOTIONS**

Certain actions are allowed per Robert's Rules of Order (Rules). The Rules are specific to what can be discussed (debated) and what motions can also be amended and the order in which the motions must be completed.

- A) A motion can be amended by the original mover and person who seconded without first having a vote on the original vote.
- B) A Motion to Amend shall be debatable only as the amendment. A motion can be done to amend the amendment, but a motion cannot be done to amend the motion to amend.
- C) An amendment must only modify the intent of the original motion.
- D) A substitute motion can be made on the same subject. This would be a motion that is different than the recommended action on an agenda item. If a motion to amend is on the table, with a second, a substitute motion can be made and has to be voted on prior to the motion to amend.
- E) Amendments shall be voted on first, then the main motion as amended.

### **9.2 PROCESSING OF MOTIONS**

The Presiding Officer will ask for a motion and second to approve the recommendation before debate takes place. When a motion is made and seconded, it shall be stated by the Presiding Officer before debate. The Presiding Officer may ask for a discussion prior to a motion and second. A motion that is made and fails to receive a second is considered as failed due to the lack of a second. A motion that has been made and seconded is a valid motion, and it shall be voted on by the Council and requires a simple majority to pass unless a higher standard is otherwise required by law. If the vote on the motion is tied or does not receive a simple majority vote, the motion will be deemed to have failed.

### **9.3 UNANIMOUS CONSENT**

The Presiding Officer may use unanimous consent. Unanimous consent is used when opposition is not expected and is primarily used to recess to adjourn the meeting.

#### **9.4 MOTION TO POSTPONE INDEFINITELY**

A motion to postpone indefinitely is used to dismiss an item on the Agenda. This motion is debatable, and because it can be applied only to the agenda item being considered, it can only be made while the agenda item is immediately pending with a valid motion. This type of motion is commonly used to postpone an item until a more appropriate time. A motion to postpone indefinitely requires a motion and a second for it to be a valid motion. A valid motion to postpone indefinitely shall be voted on by the Council and requires a simple majority to pass. If the vote on the motion is tied the motion will be deemed to have failed.

#### **9.5 MOTION TO TABLE**

A motion to table enables the Council to lay the pending question aside temporarily when something else of immediate urgency has arisen, in such a way that there is no set time for taking the matter up again. A motion to table shall be used to temporarily by-pass the Agenda item. A motion to table shall be undebatable and shall preclude all amendments or debate of the Agenda item under consideration. A motion to table requires a motion and a second for it to be a valid motion. A valid motion to table shall be voted on by the Council and requires a simple majority to pass. If the vote on the motion is tied, the motion will be deemed to have failed. If the motion to table shall prevail, the matter may be "taken from the table" at any time prior to the end of the meeting.

#### **9.6 MOTION TO LIMIT OR TERMINATE DISCUSSION**

A motion to limit or terminate discussion shall be used to limit or close debate on, or further amendment to, the valid motion under consideration. This is referred to as a "Call for The Question" and is the motion used to cut off further debate and discussion and to bring the Council to an immediate vote on the pending motion. A motion to limit or terminate discussion requires a motion and a second for it to be a valid motion, and it requires a two-thirds vote to pass. The vote will be taken by roll call or electronic tabulation. If the motion fails, debate shall be reopened; if the motion passes, a vote shall be taken immediately on the pending motion.

#### **9.7 MOTION TO AMEND**

A motion to amend, or a "friendly amendment," is a motion to amend the valid motion currently under consideration. A friendly amendment represents a minor modification or change to the current valid motion and should not be related to a separate matter and should not modify the intent of the original motion. A member of the Council may request a friendly amendment, but the maker of the current valid motion and the member who seconded it must both agree with the friendly amendment in order for the current valid motion to be amended. If the maker of the original motion and/or the member who seconded it do not agree with the friendly amendment, the motion to amend will have deemed to have failed. A motion to amend can be used more than once for the same Agenda

item. Following any amendments to the motion, the Council will act on the motion.

## **9.8 SUBSTITUTE MOTION**

A substitute motion involves a different action or recommendation than the current valid motion under consideration. In addition, a substitute motion could be a motion to amend that was not accepted by the maker and/or member that seconded the original motion. A member of the Council may make a substitute motion on the same Agenda item. If the substitute motion receives a second, it will become a valid motion. The substitute motion would be considered and voted on prior to the original motion. If the substitute motion is passed by the Council, then the original motion would not be heard. However, if the substitute motion is deemed to have failed, the Council would consider and vote on the original motion on the Agenda item.

## **9.9 MOTION TO CONTINUE**

Motions to Continue to a definite time shall be amendable and debatable as to propriety of postponement and time set.

## **SECTION 10. VOTING PROCEDURE**

### **10.1 CASTING A VOTE**

- A) In acting upon every motion, the vote shall be taken by casting a yes ("Aye") / no ("Nay") vote by mechanical, electronic, voice, roll call or any other method or means as determined by the Presiding Officer, by which the vote of each member of the Council can be clearly ascertained.
- B) Arizona Revised Statutes require that each Councilmember's vote on any motion/action be listed in the minutes. The record also shall include the names of any Councilmember not casting a vote by reason of being absent from the meeting at the time of the vote.
- C) If a Councilmember has declared a Conflict of Interest on an Agenda item, the City Clerk shall include "Recused" as the status and, if the Councilmember has stated the reason, include it in the official minutes as part of the results of the vote.
- D) In the case of an abstention from a vote, the Councilmember shall disclose on the record the specific interest that requires the Councilmember to abstain from voting. However, abstention is not allowed by City Charter (Article II, Section 21), with the only exceptions being matters of their own official conduct or for a conflict of interest as set forth by statute.
- E) If the roll call method of voting is used, the City Clerk shall call the names of all Councilmembers as follows: starting with the Vice-Mayor then Councilmembers shall be called upon to vote initially in seniority order, and then rotating with each new vote. The Presiding officer shall be called last. Councilmembers shall respond "Aye" or "Nay."
- F) Providing for an alternative means of casting votes in certain matters.

Notwithstanding the general requirement that votes be by "Aye" or "Nay," in cases where applicable law expressly permits the City to approve or to disapprove or to make no recommendation on a particular matter submitted for consideration, any motion made for action on that matter shall be presented in such form as will permit Councilmembers to vote by stating one of the following: "Approval," "Disapproval," or "No Recommendation."

If a majority of those present and voting indicate "Approval," the action will be deemed approved. If a majority of those present and voting indicate "Disapproval," the action will be disapproved. If neither approval nor disapproval is supported by a majority of those

present and voting, the Council will be deemed to have made "No Recommendation."

## **10.2 FAILURE TO VOTE**

- A) All members of the Council, in attendance of a duly called meeting that requires formal action, are required to vote, pursuant to Article II, Section 21 of the Goodyear City Charter, unless the issue involves the conduct of the Councilmember or a declared conflict of interest.
- B) Should a Councilmember fail to vote, the Councilmember's "vote" shall be counted with the majority of votes cast; however, in the event of a tie vote, the Councilmember's vote shall be counted as "Nay."

## **10.3 RECONSIDERATION**

Any member of the Council who voted with the majority may move for a reconsideration of any action at the same or next available meeting. After a motion for reconsideration has once been acted upon, no other motion for reconsideration thereof shall be made without the unanimous consent of the Council. When an Ordinance, put on final passage, fails to pass, no motion to reconsider shall be considered within twenty-four (24) hours of the vote on the Ordinance.

## **10.4 TIE VOTES**

A motion resulting in a tie vote for adoption is a failed motion. When all Councilmembers are present, a Tie Vote on whether to grant an appeal from official action shall be considered a denial of such appeal, unless Council takes other action to further consider the matter.

## **SECTION 11. DEFINITIONS**

**AGENDA:** As set forth in the Order of Business, an Agenda is a formal listing of items to be considered by the Council at a noticed meeting of the Council. The Agenda may not be changed less than 24-hours prior to the public meeting.

**COUNCIL PACKET:** A compilation of documents supporting the items listed on the Agenda and requiring Council Action, which may be used by Council, City staff, and the public for more in-depth information than may be presented in an oral report. The Council Packet is organized as set forth in the Order of Business in the Rules of Procedures; and is provided or made available to the Council and the public, according to Council Policy.

**MEETINGS:** A Meeting is the gathering, in person or by technological means, of a quorum of members of the Council, at which the Council discusses, proposes or takes legal action, including any deliberations by a quorum with respect to such action. If a quorum is not present, those in attendance will be named for the record and in the absence of the Presiding Officer, the City Clerk will adjourn the meeting.

**NOTICE:** A formal announcement to the public that sets forth the name of the Council, date, time and place for which a meeting of the Council will be held. Giving formal notice of meetings is done as provided by Statute, Charter, City Policy, or other Rules or Regulations of the Council.

**ORDINANCE:** An Ordinance is a Council Action setting forth a rule of public conduct that is considered long-term. Long-term rules include zoning issues, annexations, abandonments, laws of the City, etc. The Ordinance, in addition to being referenced by number and brief title in the Minutes, will be maintained in a numerical sequence as a permanent record of the City. Effective dates of Ordinances shall be as provided by law.

**QUORUM:** The minimum number of members of the Council that must be present in order for business to be legally transacted. With a seven-member body, a quorum (by State Statute) is four members.

**RESOLUTION:** A Resolution is a more formal form of a motion normally utilized to set forth policy of the City. The Resolution, in addition to being referenced by number and brief title in the Minutes, will be maintained in a numerical sequence as a permanent record of the City. Resolutions are used for various reasons, for example, when specifically required by law, when needed as a separate evidentiary document to be transmitted to another governmental agency, or where the frequency of future references back to its contents warrants a separate document to facilitate such future reference and research. Effective dates of Resolutions shall be provided by law.

# Ethics Handbook

for

Elected and Appointed Officials, Employees

and Volunteers



City of Goodyear, Arizona

*Goodyear is committed to upholding the principles of **Personal Responsibility, Professionalism, Collaboration, Innovation, Honesty, Fairness, Respect and Accountability.***

Prepared by the Ad Hoc Ethics Committee

Approved by the Goodyear City Council

September 28, 2009

Revised 2.11.16

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## THE GOODYEAR VISION

**The City of Goodyear is a thriving and expanding community that values integrity and upholds the highest standard of ethics from all elected and appointed officials, employees and volunteers.**

### *The Goodyear Vision includes:*

- Leadership: We are team oriented, respecting and valuing others. Leadership is by example. We are leaders of leaders, sharing vision, fate, and the rewards of efforts.
- Business Processes: We insist on adding value to the products and services we deliver to our customers. Our fully documented processes are simple, effective, efficient, and easily understood. We continually apply, review, and improve them.
- Partnerships: We base our relationships upon trust, open and honest communication, and keeping our commitments. We give full value and deal fairly; we accept no less in return.
- Training: We value people in our customer service culture and invest in continuous, timely, and consistent education and training. We develop and implement training plans to promote individual, team and organizational growth.
- Measurements & Documentation: We continually measure and evaluate our efforts and results. We analyze, document, and share our findings with our customers. We use what we learn to improve our processes, maximize our resources, and enhance customer service.

### *In our culture we value:*

- The individual
- The team
- The customer

We express this by setting ethical standards and with the display of integrity in the performance of our duties.

### *Expectations:*

- Each task to have a purpose
- The individual to step up and lead
- Positive examples to be set by leadership
- Expectations are fulfilled by consistency between words and actions

### *Beliefs:*

- Our first responsibility is to our internal and external customers
- Full support of the mission and vision of our organization
- Demonstration through actions rather than empty promises

Our organizational culture fosters mutual respect, trust and empowerment.

## Code of Ethics & Integrity Statement

Public trust is of the utmost importance to the health of city government, which is built upon elected and appointed officials, employees and volunteers commitment to the philosophy outlined in the City's mission and values. In order to uphold the Goodyear vision, core values, expectations and beliefs, a code of ethics is essential to serve as a clear guide in assessing behaviors and decisions that may compromise the City's standards of integrity. This Code of Ethics and Integrity Statement (Ethics Policy) is based on the following principles:

- **Personal Responsibility:** The individual develops a personal code of ethics.
- **Professionalism:** The individual continually reviews as necessary to ensure whether his or her behavior is consistent with the City's professional values and adheres to the "Conflict of Interest" policies.
- **Collaboration:** The individual participates to help Goodyear develop as a leader among cities.
- **Innovation:** The individual seeks out opportunities to contribute to the City in ways that are new and innovative.
- **Honesty:** The individual understands that public trust relies on truthful communication.
- **Fairness and Respect:** The individual understands that all citizens shall be treated with fairness and impartiality.
- **Accountability:** The individual understands that they shall accept responsibility for his or her actions.

## **Conflict of Interest**

*A conflict of interest occurs when an elected or appointed official, employee or volunteer is no longer able to remain impartial or objective in choosing between the interests of the City of Goodyear and the interest of oneself.<sup>1</sup>*

### **2.1 Loyalty**

Elected and appointed officials, employees and volunteers have an obligation to put the interests of the City of Goodyear over all personal considerations. Their goal should be to act within the framework of each individual's personal integrity and ethical principles and what is in the best interest for the broadest public good of the City. The public's interest must be the primary concern.

### **2.2 Contracts with the City**

Arizona law prohibits any elected or appointed official, employee or volunteer who has "a substantial interest in any contract, sale, purchase or service to such public agency" from receiving personal gain such as for self, family, friends, creditors, business associates or employees in the course of a transaction, decision or contract on behalf of the City.

### **2.3 Conflict Disclosures**

City of Goodyear elected and appointed officials, employees and volunteers shall not be involved in any activity which conflicts with their responsibilities to the City and its residents. Any personal affiliations including family, friends, financial holdings, or business associates that could be an undue influence on City business must be disclosed. In addition, elected officials shall refrain from voting on, or lobbying for, issues that pose a conflict or violate the principles of the City's Ethics Policy.

Appendix A provides examples of Conflicts and Non-Conflicts to be used as guidelines. When questionable situations arise, seek the counsel of the City Attorney or opt out of the situation.

### **2.4 Employment of Relatives**

Arizona law prohibits any elected or appointed official, employee or volunteer from being involved in the appointment, hiring or supervision of a relative. Because hiring and supervising a relative is a special type of a conflict of interest, it must be avoided.<sup>2</sup>

### **2.5 Secondary Employment by City Employees**

Secondary employment by City employees with the authorization of the City is allowed, provided that there is no conflict of interest, the job does not interfere with the time and attention you must devote to your City job, and City equipment or use of proprietary information will not be involved.

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<sup>1</sup> Elected and appointed officials, employees and volunteers are subject to the provisions of A.R.S. § 38-501 through 38-532 regarding conflict of interest (a portion of these provisions are reprinted in Appendix B) and The *Goodyear Policy Statement* on "Professional and Personal Conduct," #700. The statements made in this document often borrow from the language used in other ethics policies developed by cities in Maricopa County and are intended to reinforce the state statutes and city policies while expanding the City of Goodyear's commitment to ethical conduct in service to the community.

<sup>2</sup> See A.R.S. § 38-481; A.R. 2.91

When an elected or appointed official, employee or volunteer has been offered, or is discussing the possibility of a future position with a person, firm or any other business entity that is presently dealing with the City concerning matters within the elected or appointed official's, employee's or volunteer's current official duties, that person should disclose this information to the City Attorney's Office.

## **2.6 Management of Confidential Information**

The City of Goodyear is committed to maintaining an open and accessible government intended to engender trust and confidence from the public. Equally as important to garnering public confidence, is protecting confidential information as defined by the law.

Elected and appointed officials, employees and volunteers often have access to important non-public information regarding the property, operations, policies or affairs of the City. Such information may concern real estate transactions, expansion of public facilities or other City projects. The disclosure of this inside information may benefit a few at the expense of a possible monetary loss to the City and contributes to deteriorating public confidence.

Current or former elected and appointed officials, employees or volunteers of the City of Goodyear shall not:

- Willfully or knowingly disclose any confidential, privileged, or protected information, unless authorized or required by law to do so;
- Use any confidential, privileged or protected information to advance the financial or other private interest of himself or herself or others; or
- Accept employment or engage in any business or professional activity which will require him or her to disclose confidential, privileged or protected information which he or she has gained by reason of his or her official position or authority.

When such information *is* available through channels open to the public, there is no prohibition from disclosure. Before releasing any information, however, be sure to check with appropriate City legal services.

How information is collected and used involves ethics and directly impacts the standards of performance and behavior that the City of Goodyear wishes to achieve. Elected and appointed officials, employees and volunteers who trade information that rightfully belongs to the City are obligated to adhere to the City's standards and values, and are ultimately liable if these standards are not upheld.

## **2.7 Gifts**

City of Goodyear elected and appointed officials, employees and volunteers are expected to provide the highest level of integrity and impartiality while representing the city and serving the public. Since gifts always have the potential to influence decisions and create perceptions of impropriety, the standard and general practice is to refuse gifts and to not use one's position to influence, request, or accept a gratuity or gift.

City of Goodyear employees are expected to provide the highest level of integrity and impartiality while representing the city and serving the public. Since gifts always have the potential to influence decisions and create perceptions of impropriety, the standard and general practice is to refuse gifts and to not use one's position to influence, request, or accept a gratuity or gift.

Gifts include, but are not limited to, monetary compensation outside of one's salary, gift cards, meals, travel, entertainment tickets to sporting events, concerts, theaters or other productions, and other tangibles or contributions that have a personal value.

Further, Arizona law prohibits public officers or employees from receiving anything of value or any compensation outside their normal salary and benefits for services rendered.

However, situations will arise where exceptions to the general rule are reasonable and permissible as follows:

- (1) Employees may accept a personal gift where the gift is of nominal value and non-recurring;
- (2) Food and refreshments of insignificant value on infrequent occasions within the course and scope of a meeting, conference, or other occasion where the city representative is in proper attendance;  
or
- (3) Businesses, organizations, other government entities, and the public at large may make gifts to the City of Goodyear through the City Manager's office.

Gifts made to the City of Goodyear that may have a personal value, including but not limited to, movie and entertainment tickets may also be made through the City Manager's office. In that event, the City Manager will distribute any such gifts to City staff via an impartial drawing or lottery. It is also appropriate to use these types of gifts to enhance or reward staff performance so long as the distribution continues to be impartial (i.e., eligible employees that receive certain points on performance reviews will be entered into a drawing).

Gifts over \$50.00 may only be accepted when it is prudent, in the best interest of the City, and adheres to the following requirements:

- The reasonably prudent person would not interpret the gift to intend to influence a decision or elicit favoritism from the recipient; and
- The gift must be formally declared within two (2) business days to the City Clerk and the declarant shall fill out a Gift Declaration Form (included in Appendix C of the Ethics Handbook) to be held as a public record in the City Clerk's office.

Other examples of permissible gifts include mementos that symbolize the City's emerging partnerships and community development.

## **2.8 Undue Influence**

Undue influence involves one person taking advantage of a position of power over another person. For example, supervisors should not exert verbal or nonverbal pressure on subordinates to grant personal

favors and complete requested work while off duty, nor should they request monetary favors or contributions.<sup>3</sup> Elected and appointed officials, employees and volunteers for the City of Goodyear are expected to engage in the highest level of professional behavior when dealing with employees or volunteers whom they supervise (i.e., shift assignment, working conditions, etc.).

No current elected or appointed official, employee or volunteer of the City of Goodyear shall knowingly, or with reason to know:

- Use or attempt to use his or her official position to secure for him or herself and/or others unwarranted privileges or exemptions which are of substantial value and which are not properly available to similarly situated individuals;
- Act in a manner which would cause a reasonable person, having knowledge of the relevant circumstances, to conclude that any person can improperly influence or unduly enjoy his or her favor in the performance of his or her official duties, or that he or she is likely to act or fail to act as a result of kinship, rank, position or undue influence of any party or person; or
- Place pressure on other elected or appointed officials, employees or volunteers that would cause them to deviate from preferred and accepted ethical behavior.

Elected and appointed officials, employees and volunteers who deliver or consume City services should experience a *positive, professional* and *productive* work environment. The quality of our environment directly contributes to achieving *our standard of excellence in local governance*. Our work environment should be one where employees are positive about being here and excellent performance becomes the norm. An added emphasis is placed on elected and appointed officials, employees and volunteers whom are in leadership positions. As leaders within the City government, they need to set the standard through their own words and actions by demonstrating the qualities needed to ensure that our workplace culture supports personal responsibility, professionalism, collaboration, innovation, honesty, fairness, respect and accountability.

## **2.9 Political Activity**

Political engagement is necessary for the health of city government and is encouraged for all of Goodyear's citizens. To ensure that the democratic process is upheld and the City's Ethics Policy is adhered to, elected and appointed officials, employees or volunteers shall not use their political position to advance private interests.

Elected officials shall not use their influence, power, or position to reward or give favors in return for partisan participation on any campaign, for any candidate or cause.

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<sup>3</sup> See A.R.S. § 38-504. Prohibitive Acts Section C (reprinted in Appendix B)

## **Fiscal Responsibility**

*As a leader among cities, it is imperative that the City of Goodyear remains fiscally responsible by properly managing resources and ensuring a strong City government for future generations.*

### **3.1 Use of City Time, Personnel, Equipment, Property and Resources**

City elected and appointed officials, employees and volunteers shall not use City time, personnel, equipment, property or resources for private purposes, except to the extent they are lawfully available to the public.

Any personal e-mails, faxes or use of other communications generated by the use of City equipment should be considered public information. Users have no explicit or implicit expectation of privacy. In addition, the City's technological resources shall be used in the most prudent manner in support of the City's mission and in adherence to the "Ethics Policy." The City prohibits improper use of the City's computer hardware, software and accessories.<sup>4</sup>

### **3.2 Travel**

While travel procedures and policies are clearly established by the "City of Goodyear Administrative Guidelines," certain related ethical policies pertaining to travel shall be observed.<sup>5</sup> Prior to approving travel, supervisors and managers must ask themselves and the employee, "Is this trip necessary?" This very simple question may preclude inquiries concerning any ethical issues that may arise as a result of the travel. In addition, issues concerning costs, entertainment, gifts, and other things of value that may arise during the travel must be clearly addressed.

Travel of Council Members, Commissioners, and Committee Members will be administered by the City Manager. Ethical issues contained in the *City of Goodyear Administrative Guidelines* should serve as a guide to non-employee officials as to the standards they should follow.

Any City elected or appointed official, employee or volunteer who travels away from Goodyear as a representative of the City, or is reimbursed by the City for their trip, shall continue to adhere to any and all ethical standards for behavior and decision-making that are upheld locally.

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<sup>4</sup> For a more specific discussion of what is acceptable see The *Goodyear Administrative Guidelines* on "Email and Internet Usage," "Computer Usage," "Hardware, Software and Services" and "Wireless Devices," guideline #s 740, 750, 770 and 790.

<sup>5</sup> See The *Goodyear Administrative Guidelines*, #s 700, 900, 910 and 920.

## Public Access

*The City of Goodyear is committed to maintaining the public's trust by fostering an environment that is open, honest and efficient. In addition, the City is dedicated to treating all citizens with fairness and respect.*

### 4.1 Open Meeting Laws

The intent of the open meeting laws are to increase the understanding of public policy decisions and ensure that decision-making by representatives of the public is done in the open without secrecy. Elected officials, appointed officials and committee members shall strive to uphold not only the open meeting laws, but the spirit of the open meeting laws. All decisions, and the information and discussions used to make decisions, should be in a public forum and open to public inquiry. To assist public understanding of public policy decisions, elected officials are encouraged to explain their position on issues by participating in public discussions at regularly scheduled council meetings and work sessions.<sup>6</sup>

### 4.2 Attendance

City elected and appointed officials, employees and volunteers are expected to adhere to the policies of their respective attendance guidelines. The City elected, appointed, hired, or agreed to a volunteer service and cannot conduct business to its fullest in your absence or meet its goals within the indicated timeframe. Additionally, elected and appointed bodies need individual members present for quorums. Specific attendance policies as they are presently enforced are as follows:

- City Council: The City Charter states: "If any Council member shall be absent from more than three consecutive regular meetings, or a total of four regular meetings in any calendar year, without the consent of the Council duly recorded in the journal, he or she shall thereupon cease to hold office."
- Boards, Commissions and Committees: The City appoints an individual based on his or her expertise, background and judgment needed in the particular policy area. The City's attendance policy for members of boards, commissions, and committees provides that, if a member fails to attend three consecutive regular meetings, or more than fifty percent of all meetings of such groups held over a calendar year, the City Council may declare that seat vacant and appoint a replacement.
- Employees: Employees are expected to adhere to the schedule given to them when hired that specifies the work week, including beginning and ending times, and all lunch and rest breaks as defined by their position. Not observing work schedules or break rules can lead to disciplinary action. City employees are expected to be productive, thus any loafing, tardiness, abuse or careless use of paid time destroys the public's respect and trust for what we do in the City of

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<sup>6</sup> Numerous Arizona and City laws require that meetings of public bodies be open to the public and that public records be available for inspection. See Open Meeting Laws A.R.S. §§ 38-431 through 431.09 and Public Records Laws A.R.S. §§ 39-121 through 121.03.

Goodyear. Of course, supervisors understand the occasional unpredictable events which cause employees to be tardy or absent, however, when these events become excessive or unexplained, they are not easily excused.

- Volunteers: The City of Goodyear appreciates the time and service of all volunteers and realizes that this civic service is necessary for our City to function effectively. It is the responsibility of the volunteer to respect the chairperson or supervisor of the department and/or committee expecting your service. Therefore, if at all possible, please advise the chairperson or supervisor in advance if you are unable to fulfill your scheduled time and service.

### **4.3    *Discrimination***

It is the policy of the City of Goodyear that the Mayor, City Council, employees, boards, commissions, volunteers and special committees promote equal opportunities through a positive continuing program. This means that the City will not discriminate, nor tolerate discrimination, harassment or intimidation, against any applicant, employee, resident or individual because of his or her race, color, religion, gender, national origin, age, or disability.

## Ethics Education & Training Development

*Ethics education and training development demonstrates to the public that the City of Goodyear is committed to upholding the “Ethics Policy.”*

### 5.1 Guidelines for Ethics Education

The City of Goodyear’s “Code of Ethics and Integrity” statement found in Section 1 of this document shall serve as the foundation for ethics education and training for all City elected and appointed officials, employees and volunteers. The process for each position is as follows:

- New Employees: Each new employee shall read the City of Goodyear’s Ethics Policy and sign the “Ethics Policy Acknowledgement and Agreement” form found in Appendix C at the time all other employment documents are completed. Ethics training shall be completed within 90 days and is reviewed as part of the “Performance Evaluation Form for Trial Employees.” This training is to be administered by the City of Goodyear’s Human Resources Department and/or the employee’s Supervisor or Department Director.
- Current City Employees: An employee currently on the City payroll shall read the City of Goodyear’s Ethics Policy and sign the “Ethics Policy Acknowledgement and Agreement” form found in Appendix C by the time of their performance review. In addition, he or she shall complete the City of Goodyear’s online ethics course. The ethics training requirements shall be included in the “Employee Objectives” during regularly scheduled annual reviews.<sup>7</sup>
- Newly Formed Committee or Task Force Members: Each member shall read the City of Goodyear’s Ethics Policy and sign the “Ethics Policy Acknowledgement and Agreement” form found in Appendix C as part of the introduction meeting. This is to be administered by a City of Goodyear representative.
- Standing Commissions and Boards: Each member shall read the City of Goodyear’s Ethics Policy and sign the “Ethics Policy Acknowledgement and Agreement” form found in Appendix C by the first (or next) meeting of the group. Ethics training shall be held annually for each group and administered by an employee representative of the City.
- Volunteers: Each volunteer shall read the City of Goodyear’s Ethics Policy and sign the “Ethics Policy Acknowledgement and Agreement” form found in Appendix C on the first day of volunteer service. Ethics training workshops shall be offered annually for all volunteers and administered by the City of Goodyear Volunteer Services.
- City Council Members: Each newly elected individual shall complete the City of Goodyear’s online ethics course. In addition, he or she shall read the City of Goodyear’s Ethics Policy and sign the “Ethics Policy Acknowledgement and Agreement” form found in Appendix C and sign the “Declaration of Conflict of Interest” or “Personal Interest” statements by the time they are sworn in.

After the May election results, an elected official has approximately 30 days to complete the ethics training and sign the agreement prior to being sworn into office at the first Council meeting in June.

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<sup>7</sup> The form for which this training requirement shall be recorded and tracked is the “Employee Appraisal and Performance Plan.”

Current City Council members shall complete the City of Goodyear's online ethics course annually. In addition, he or she shall read the City of Goodyear's Ethics Policy and sign the "Ethics Policy Acknowledgement and Agreement" form found in Appendix C within 30 days. The City Manager and/or City Attorney will administer this process appropriately.

## **5.2 *Online Ethics Training***

The ethics training program shall be comprehensive and meaningful. It shall be accessible online to facilitate easy completion in a timely manner and shall use specific examples or case studies to illustrate unethical behaviors or situations. The training should include an illustration of the approved process to follow should an individual have questions or concerns regarding his or her activities or those of others in City service. Upon completion of each training program, attendees shall sign a statement confirming that they have completed the training and have their personnel files updated.

The ethics training program shall be reviewed on a periodic basis to ensure it remains fresh, accurate, and meaningful in service to the citizens, elected and appointed officials, employees and volunteers of Goodyear.

## Procedures

*Have you ever been faced with a situation concerning a City elected or appointed official, employee or volunteer that caused you some concern? Have you ever wondered where to seek advice or report a possible unethical situation? This section is intended to help the City of Goodyear fulfill its dedication to the Ethics Policy by providing a procedure for clarifying, reporting and handling situations that may potentially compromise the integrity of the City.*

### **6.1 Where to Seek Advice**

Questions about the Ethics Policy, or other ethical problems, can be addressed to the City Attorney's Office at **(623) 882-7227**.

### **6.2 The "Ethics Test"**

When you face a situation that causes YOU to question your ethical conduct ask yourself these questions:

- How does this situation make me feel about myself?
- How would my family react to knowing about this and my decision?
- Would it pass the "headline test"? How would the community react?
- How does the decision and my proposed action align with the City's Mission, Values and Ethics Policy?
- Will it violate a law or a City policy?
- Will my action or solution be fair to all concerned?
- How will this affect other decisions I may be called upon to make in the future?
- Could I disclose, without reservation, my decision or action to my family, my peers, my superiors, or the community?

When you observe a situation or the actions of OTHERS that causes you to question their conduct, ask yourself these questions:

- Have I defined the ethical question/problem accurately?
- How would I define it if I stood on the other side of the fence or if I placed myself in the other's situation?
- Can I discuss this with the affected parties before I bring it to the attention of the City Attorney?
- What is my intent in making the decision to alert the City Attorney?
- What result or outcome do I expect to achieve to resolve the problem?
- How do these results compare with my intent in bringing this to the attention of the City Attorney?
- Could my decision or action unfairly injure someone or something?

### **6.3 How to Report a Possible Ethics Violation**

The City of Goodyear encourages individuals to report possible violations of governmental ethics laws, and other laws, regulations and rules governing the conduct of City officers, employees and volunteers.

Such reports may be made by calling the City's Whistleblower Hotline at the number listed below. Complaints may also be made by filing a formal, written complaint with the City Attorney's Office (the form can be found in Appendix C). Anonymous complaints will not be investigated.

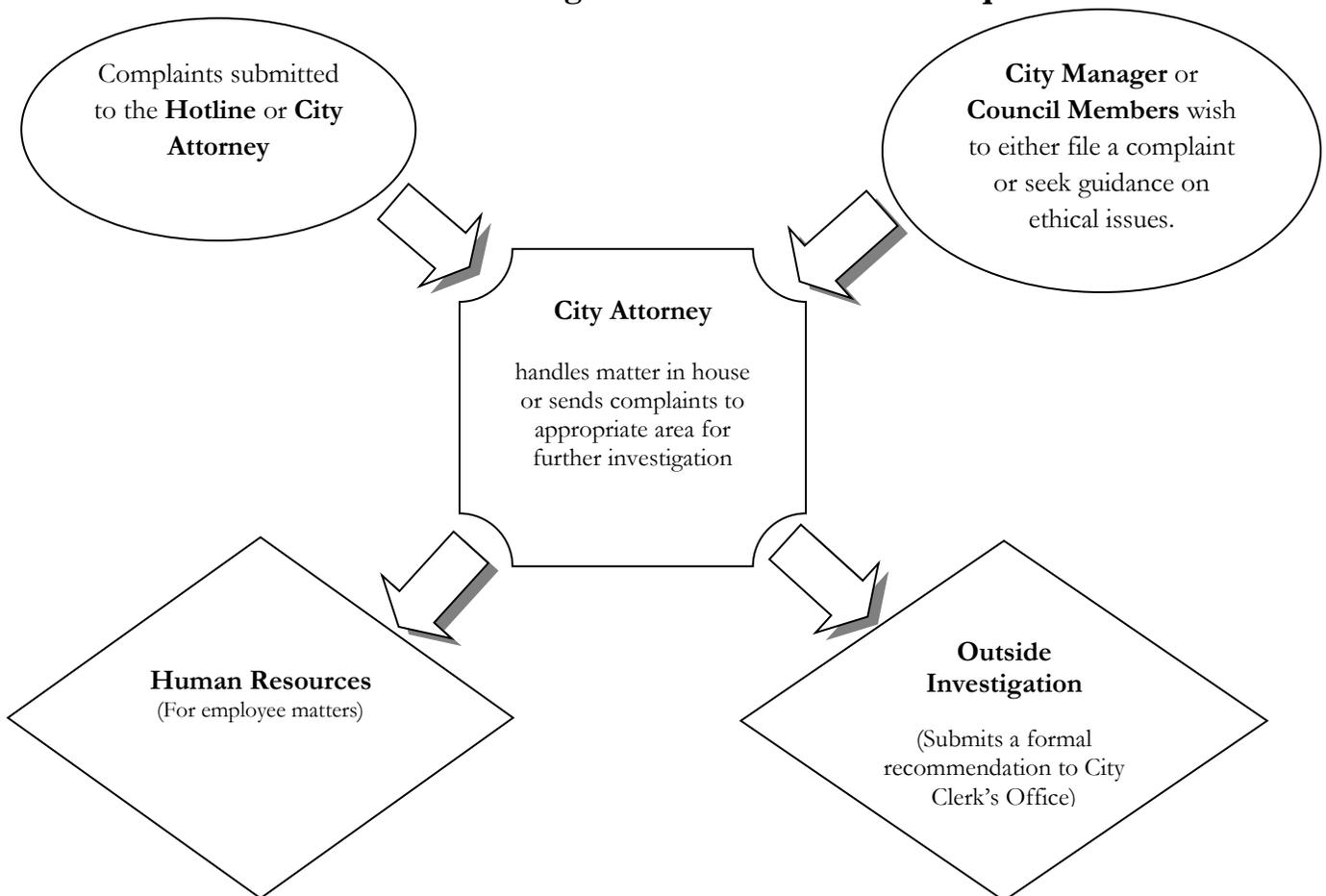
All complaints made to the City are **confidential** to the extent permitted by State law. In addition, local law protects individuals who file complaints with the City from retaliation for filing the complaint.

Upon receiving a complaint or request for recommendation, the City Attorney will conduct an investigation into the matter and file a written recommendation with the City Clerk's Office within 45 days.

**WHISTLEBLOWER  
HOTLINE  
623-882-7300**

Please be advised that all complaints not within the City Attorney's jurisdiction shall be directed to the appropriate department or agency for investigation and possible disciplinary or enforcement action.

### **Process of Handling Ethical Violations and Inquiries**



The City Attorney or an outside investigator will conduct an investigation and make written findings of fact and recommendations, to be filed as a public record with the City Clerk's Office for review and possible action by the City Council and/or or City Administration as appropriate.

## Appendix A

### *Conflict of Interest Situational Examples*

The following examples are provided to give you an idea how Arizona's Conflict of Interest Laws would be applied. Of course, each situation is dependent upon the unique facts and circumstances involved. The goal of these examples—and indeed this entire Handbook—is to help develop greater sensitivity to ethical considerations. **If you are in doubt of what you should do, opt not to participate.**

#### **A. Conflicts of Interest**

Listed below are illustrative examples of situations involving potential violations of Arizona's Conflict of Interest statutes. (All of the examples assume that the City employee or officer is a member of the public agency that is reviewing the matter in question.)

1. The City employee or member of a City board, commission, committee or the City Council (or a relative) owns property in such close proximity to property that is the subject of a zoning or license application that the granting or denial of the application could significantly affect the value of the employee's or member's property.
2. The City employee or member of a City board, commission, committee or the City Council (or a relative) has done work in the past for a firm seeking a City contract and anticipates doing further work for the firm in the future. A potential conflict exists regardless of whether the work involves the matter that is the subject of the contract. (However, mere past association does not of itself constitute a conflict if the business relationship is not a continuing one.)
3. The City employee or member of a City board, commission, committee or the City Council (or a relative) is an officer of a corporation that operates a chain of stores. An application by a competitor seeks zoning approval for a store within the service area of one of the stores owned by the member's corporation.
4. The City employee or member of a City board, commission, committee or the City Council (or a relative) is a developer who files an application for approval of a project. Not only must the City employee or member disqualify himself from consideration of the application, the member also may not participate in the matter by personally presenting the application to the public body. (However, someone else may present the application on behalf of City employees and members of City boards, commission and committees and the City Council.)
5. The City employee or member of a City board, commission, committee or the City Council (or a relative) is a realtor who has had discussions concerning a listing agreement with the owner of property that is the subject of a zoning application. If the City employee or member of a City board, commission, committee or the City Council wishes to pursue the agreement, he should disqualify himself from considering the application. If the City employee or member of a City board, commission, committee or the City Council does not disqualify himself, he should not subsequently enter into the listing agreement.

6. A proposed amendment to the City Code seeks to regulate a specific type of business activity. The City employee or member of a City board, commission, committee or the City Council (or a relative) has an exclusive franchise or right to conduct the activity in the City.
7. The City employee or member of a City board, commission, committee or the City Council (or a relative) has an interest in property that will be uniquely affected by a proposed land use plan, and the adoption of the plan could affect the value of the property (e.g., the plan confers special benefits on the property that are not applied to other similarly situated properties).
8. The close relative of a City employee or a member of a City board, commission, committee or the City Council is in business with a person whose application or contract is being considered by the public agency.
9. The City employee or member of a City board, commission, committee or the City Council receives more than five percent of his total annual income from a corporation that has an application or a contract pending before the public body.
10. The City employee or member of a City board, commission, committee or the City Council is seeking the award of a professional services contract from the City, unless the contract will be awarded through competitive bidding to the lowest bidder. A conflict of interest exists in the absence of competitive bidding regardless of whether the City employee or member of a City board, commission, committee or the City Council participates in awarding the contract. In other words, a City employee or member of a City board, commission, committee or the City Council is prohibited from contracting with the City unless the contract will be awarded through competitive bidding.
11. The City employee or member of a City board, commission, committee or the City Council (or a close relative) is a paid employee of an organization which receives funds appropriated by the City council, including federal and state funds administered by the City.

## **B. No Conflict of Interest Exists**

The following illustrative examples are of situations that do not constitute violations of the Conflict of Interest Laws. (Again, all examples assume that the City employee or member of a City board, commission, committee or City Council is a member of the public agency that is reviewing the matter in question.)

1. The City employee or member of a City board, commission, committee or the City Council (or a relative) is a member of a trade association that has applied for an amendment to the City Code that is being considered by the public agency.
2. The City employee or member of a City board, commission, committee or the City Council (or a relative) owns a property in an area that is included in a proposed land-use plan that is being considered by the public body (unless that plan would uniquely affect the property of the City employee or a member of City board, commission, committee or the City Council).
3. The City employee or member of a City board, commission, committee or the City Council (or a relative) is the non-salaried officer of a nonprofit corporation that has an application that is being considered by the public body.

4. The City employee or member of a City board, commission, committee or the City Council is a tenant of a property owner who is seeking a City contract (unless the contract would affect the pecuniary or proprietary interests of the City employee or member of a City board, commission, committee or the City Council).
5. The City employee or member of a City board, commission, committee or the City Council is the attorney for a contracting party (as long as the City employee or member of a City board, commission, committee or the City Council does not represent the person in regard to the contract).
6. The City employee or member of a City board, commission, committee or the City Council owns less than 3% of the shares of a corporation that has an application being considered by the public body. The City employee or member of a City board, commission, committee or the City Council does not have a conflict if the total annual income from dividends, including the value of stock dividends from the corporation, does not exceed 5% of the total annual income of the City employee or member of a City board, commission, committee or the City Council and any other payments made to him by the corporation do not exceed 5% of his total annual income.
7. The City employee or member of a City board, commission, committee or the City Council is an advocate for or against a matter before the public agency and has publicly stated that he will or will not support the matter (unless the matter will affect the pecuniary or proprietary interest of the City employee or member of a City board, commission, committee or the City Council).
8. The City employee or member of a City board, commission, committee or the City Council (or a relative) contracts to purchase services or goods from a firm that does business with the City (as long as the contract is unrelated to official actions taken by the City employee or member of the City board, commission, committee or the City Council, and the City employee or member of a City board, commission, committee or the City Council receives no benefit from the firm as a result of official action).

**Appendix B**  
***Foundations in Law***  
Arizona Statutes

(Current as of November, 2008)

**§38-481. Employment of relatives; violation; classification; definition**

- A. It is unlawful, unless otherwise expressly provided by law, for an executive, legislative, ministerial or judicial officer to appoint or vote for appointment of any person related to him by affinity or consanguinity within the third degree to any clerkship, office, position, employment or duty in any department of the state, district, county, city or municipal government of which such executive, legislative, ministerial or judicial officer is a member, when the salary, wages or compensation of such appointee is to be paid from public funds or fees of such office, or to appoint, vote for or agree to appoint, or to work for, suggest, arrange or be a party to the appointment of any person in consideration of the appointment of a person related to him within the degree provided by this section.
- B. Any executive, legislative, ministerial or judicial officer who violates any provision of this section is guilty of a class 2 misdemeanor.
- C. The designation executive, legislative, ministerial or judicial officer includes all officials of the state, or of any county or incorporated city within the state, holding office either by election or appointment, and the heads of the departments of state, county or incorporated cities, officers and boards or managers of the universities.

***Conflict of Interest of Officers and Employees***

**§ 38-501. Application of article**

- A. This article shall apply to all public officers and employees of incorporated cities or towns, political subdivisions and of the state and any of its departments, commissions, agencies, bodies or boards.
- B. Notwithstanding the provisions of any other law, or the provisions of any charter or ordinance of any incorporated city or town to the contrary, the provisions of this article shall be exclusively applicable to all officers and employees of every incorporated city or town, or political subdivision or the state and any of its departments, commissions, agencies, bodies or boards and shall supersede the provisions of any other such law, charter provision or ordinance.
- C. Other prohibitions in the state statutes against any specific conflicts of interest shall be in addition to this article if consistent with the intent and provisions of this article.

**§ 38-502. Definitions**

In this article, unless the context otherwise requires:

- 1. “Compensation” means money, a tangible thing of value or a financial benefit.

2. “Employee” means all persons who are not public officers and who are employed on a full-time, part-time or contract basis by an incorporated city or town, a political subdivision or the state or any of its departments, commissions, agencies, bodies or boards for remuneration.
3. “Make known” means the filing of a paper signed by a public officer or employee which fully discloses a substantial interest or the filing of a copy of the official minutes of a public agency which fully discloses a substantial interest. The filing shall be in the special file established pursuant to § 38-509.
4. “Official records” means the minutes or papers, records and documents maintained by a public agency for the specific purpose of receiving disclosures of substantial interests required to be made known by this article.
5. “Political subdivision” means all political subdivisions of the state and county, including all school districts.
6. “Public agency” means:
  - (a) All courts.
  - (b) Any department, agency, board, commission, institution, instrumentality, or legislative or administrative body of the state, a county, an incorporated town or city and any other political subdivision.
  - (c) The state, county and incorporated cities or towns and any other political subdivisions.
7. “Public competitive bidding” means the method of purchasing defined in title 41, chapter 4, article 3, or procedures substantially equivalent to such method of purchasing or as provided by local charter or ordinance.
8. “Public officer” means all elected and appointed officers of a public agency established by charter, ordinance, resolution, state constitution or statute.
9. “Relative” means the spouse, child, child’s child, parent, grandparent, brother or sister of the whole or half blood and their spouses and the parent, brother, sister or child of a spouse.
10. “Remote interest” means:
  - (a) That of a non-salaried officer of a nonprofit corporation.
  - (b) That of a landlord or tenant of the contracting party.
  - (c) That of an attorney of a contracting party.
  - (d) That of a member of a nonprofit cooperative marketing association.
  - (e) The ownership of less than three percent of the shares of a corporation for profit, provided the total annual income from dividends, including the value of stock dividends, from the

corporation does not exceed five percent of the total annual income of such officer or employee and any other payments made to him by the corporation do not exceed five percent of his total income.

- (f) That of a public officer or employee in being reimbursed for his actual and necessary expenses incurred in the performance of official duty.
- (g) That of a recipient of public services generally provided by the incorporated city or town, political subdivision or state department, commission, agency, body or board of which he is a public officer or employee, on the same terms and conditions as if he were not an officer or employee.
- (h) That of a public school board member when the relative involved is not a dependent, as defined in A.R.S. § 43-1001, or a spouse.
  - (i) That of public officer or employee, or that of a relative of a public officer or employee, unless the contract or decision involved would confer a direct economic benefit or detriment upon the officer, employee or his relative, or any of the following:
    - (ii) Another political subdivision.
    - (iii) A public agency of another political subdivision.
    - (iv) A public agency except if it is the same governmental entity.
    - (v) 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.

11. "Substantial interest" means any pecuniary or proprietary interest, either direct or indirect, other than a remote interest.

**§ 38-503. Conflict of interest; exemptions; employment prohibition**

- A. Any public officer or employee of a public agency who has, or whose relative has, a substantial interest in any contract, sale, purchase or service to such public agency shall make known that interest in the official records of such public agency and shall refrain from voting upon or otherwise participating in any manner as an officer or employee in such contract, sale or purchase.
- B. Any public officer or employee who has, or who's relative has, a substantial interest in any decision of a public agency shall make known such interest in the official records of such public agency and shall refrain from participating in any manner as an officer or employee in such decision.
- C. Notwithstanding the provisions of subsections A and B of this section, no public officer or employee of a public agency shall supply to such public agency any equipment, material, supplies or services, unless pursuant to an award or contract let after public competitive bidding, except that:

1. A school district governing board may purchase, as provided in §§ 15-213 and 15-323, supplies, materials and equipment from a school board member.
  2. Political subdivisions other than school districts may purchase through their governing bodies, without using public competitive bidding procedures, supplies, materials and equipment not exceeding three hundred dollars in cost in any single transaction, not to exceed a total of one thousand dollars annually, from a member of the governing body if the policy for such purchases is approved annually.
- D. Notwithstanding subsections A and B of this section and as provided in §§ 15-421 and 15-1441, the governing board of a school district or a community college district may not employ a person who is a member of the governing board or who is the spouse of a member of the governing board.

**§ 38-504. Prohibited acts**

- A. A public officer or employee shall not represent another person for compensation before a public agency by which the officer or employee is or was employed within the preceding twelve months or on which the officer or employee serves or served within the preceding twelve months concerning any matter with which the officer or employee was directly concerned and in which the officer or employee personally participated during the officer's or employee's employment or service by a substantial and material exercise of administrative discretion.
- B. During the period of a public officer's or employee's employment or service and for two years thereafter, a public officer or employee shall not disclose or use for the officer's or employee's personal profit, without appropriate authorization, any information acquired by the officer or employee in the course of the officer's or employee's official duties which has been clearly designated to the officer or employee as confidential when such confidential designation is warranted because of the status of the proceedings or the circumstances under which the information was received and preserving its confidentiality is necessary for the proper conduct of government business. A public officer or employee shall not disclose or use, without appropriate authorization, any information that is acquired by the officer or employee in the course of the officer's or employee's official duties and that is declared confidential by law.
- C. A public officer or employee shall not use or attempt to use the officer's or employee's official position to secure any valuable thing or valuable benefit for the officer or employee that would not ordinarily accrue to the officer or employee in the performance of the officer's or employee's official duties if the thing or benefit is of such character as to manifest a substantial and improper influence on the officer or employee with respect to the officer's or employee's duties.

**§ 38-505. Additional income prohibited for services**

- A. No public officer or employee may receive or agree to receive directly or indirectly compensation other than as provided by law for any service rendered or to be rendered by him personally in any case, proceeding, application, or other matter which is pending before the public agency of which he is a public officer or employee.

B. This section shall not be construed to prohibit the performance of ministerial functions including, but not limited to, the filing, or amendment of tax returns, applications for permits and licenses, incorporation papers and other documents.

**§ 38-506. Remedies**

- A. In addition to any other remedies provided by law, any contract entered into by a public agency in violation of this article, is voidable at the instance of the public agency.
- B. Any person affected by a decision of a public agency may commence a civil suit in the superior court for the purpose of enforcing the civil provisions of this article. The court may order such equitable relief as it deems appropriate in the circumstances including the remedies provided in this section.
- C. The court may in its discretion order payment of costs, including reasonable attorney's fees, to the prevailing party in an action brought under subsection B.

**§ 38-507. Opinions of the attorney general, county attorneys, city or town attorneys and house and senate ethics committee**

Requests for opinions from the attorney general, a county attorney, a city or town attorney, the senate ethics committee or the House of Representatives ethics committee concerning violations of this article shall be confidential, but the final opinions shall be a matter of public record. The county attorneys shall file opinions with the county recorder, the city or town attorneys shall file opinions with the city or town clerk, the senate ethics committee shall file opinions with the senate secretary and the House of Representatives ethics committee shall file opinions with the chief clerk of the House of Representatives.

**§ 38-508. Authority of public officers and employees to act**

- A. If the provisions of § 38-503 prevent an appointed public officer or a public employee from acting as required by law in his official capacity, such public officer or employee shall notify his superior authority of the conflicting interest. The superior authority may empower another to act or such authority may act in the capacity of the public officer or employee on the conflicting matter.
- B. If the provisions of § 38-503 prevent a public agency from acting as required by law in its official capacity, such action shall not be prevented if members of the agency who have apparent conflicts make known their substantial interests in the official records of their public agency.

**§ 38-509. Filing of disclosures**

Every political subdivision and public agency subject to this article shall maintain for public inspection in a special file all documents necessary to memorialize all disclosures of substantial interest made known pursuant to this article.

**§ 38-510. Penalties**

A. A person who:

1. Intentionally or knowingly violates any provisions of §§ 38-503 through 38-505 is guilty of a class 6 felony.
2. Recklessly or negligently violates any provision of §§ 38-503 through 38-505 is guilty of a class 1 misdemeanor.

B. A person found guilty of an offense described in subsection A of this section shall forfeit his public office or employment if any.

C. It is no defense to a prosecution for a violation of §§ 38-503 through 38-505 that the public officer or employee to whom a benefit is offered, conferred or agreed to be conferred was not qualified or authorized to act in the desired way.

D. It is a defense to a prosecution for a violation of §§ 38-503 through 38-505 that the interest charged to be substantial was a remote interest.

**§ 38-511. Cancellation of political subdivision and state contracts; definition**

A. The state, its political subdivisions or any department or agency of either may, within three years after its execution, cancel any contract, without penalty or further obligation, made by the state, its political subdivisions, or any of the departments or agencies of either if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the state, its political subdivisions or any of the departments or agencies of either is, at any time while the contract or any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.

B. Leases of state trust land for terms longer than ten years canceled under this section shall respect those rights given to mortgagees of the lessee by § 37-289 and other lawful provisions of the lease.

C. The cancellation under this section by the state or its political subdivisions shall be effective when written notice from the governor or the chief executive officer or governing body of the political subdivision is received by all other parties to the contract unless the notice specifies a later time.

D. The cancellation under this section by any department or agency of the state or its political subdivisions shall be effective when written notice from such party is received by all other parties to the contract unless the notice specifies a later time.

E. In addition to the right to cancel a contract as provided in subsection A of this section, the state, its political subdivisions or any department or agency of either may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the state, its political subdivisions or any department or agency of either from any other party to the contract arising as the result of the contract.

- F. Notice of this section shall be included in every contract to which the state, its political subdivisions, or any of the departments or agencies of either is a party.
- G. For purposes of this section, “political subdivisions” do not include entities formed or operating under title 48, Chapters 11, 12, 13, 17, 18, 19 or 22.

## Appendix C

### *Forms*

## **Ethics Policy Acknowledgment and Agreement**

CITY OF GOODYEAR, ARIZONA

By my signature below, I acknowledge that I have read and understand the City of Goodyear's Ethics Policy. I agree that I will comply with the Constitution and laws of the United States of America, the Constitution and laws of the State of Arizona, and the charter, laws, regulations and policies of the City of Goodyear, including the Ethics Policy. I further agree to participate in continuing education workshops, regarding public service ethics, as required by the Ethics Policy.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Position

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

**City of Goodyear Gift Declaration Form**

This form shall be filled out when a gift of over \$50.00 is received by any City Elected and Appointed Official, Employee, City Committee, Board or Commission Member, or City Volunteers while acting in their respective official capacity or arising out of the relationship with their position with the City of Goodyear. Fill out all applicable questions and do not leave any questions blank; if a question does not apply to your circumstance, please write in "N/A".

Declarant Information

Declarant's Name:	
Job Title:	
Department:	
Division:	
Work Phone:	
Date Gift Received:	
Date this Declaration Made:	
Approximate Fair Market Value of Gift:	\$
Description of Gift:	
Circumstances or Special Remarks:	
Benefit to the Public	

**Information on Person or Business Making the Gift**

Person Making the Gift: \_\_\_\_\_

Business or Organization Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State & Zip Code: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

**COMPLAINT FORM**  
City of Goodyear, Arizona

*Please type or print legibly, and attach additional pages if necessary.*

**Complainant Information**

**Name of Complainant:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**City, State, Zip Code:** \_\_\_\_\_

**Home Phone:** \_\_\_\_\_

**Work Phone:** \_\_\_\_\_

**Respondent Information**

**Name of Respondent:** \_\_\_\_\_

**Business Title:** \_\_\_\_\_

**City Department:** \_\_\_\_\_

**Business Address:** \_\_\_\_\_

**City, State, Zip Code:** \_\_\_\_\_

**Work Phone:** \_\_\_\_\_

*If more space is needed to list additional complainants or respondents, please check this box and attach additional sheets as necessary.*

**Allegation(s)**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*\*\* Complaints that allege that a City officer or employee engaged in some form of misconduct that is not within the City Attorney's authority to resolve will be forwarded to the appropriate department or agency for review and possible enforcement.*

**Description of Facts**

Provide a specific description of the facts constituting the violation(s), including any relevant dates. Attach additional sheets as necessary.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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**Witnesses**

Provide the following information about person(s) you believe may have information that would assist the Commission in its evaluation of this complaint.

**Name of Witness:**

**Address:** \_\_\_\_\_

**City, State, Zip Code:** \_\_\_\_\_

**Phone:** \_\_\_\_\_

**Information you believe this person can provide to support the allegations stated in this complaint:**

**Name of Witness:**

**Address:** \_\_\_\_\_

**City, State, Zip Code:** \_\_\_\_\_

**Phone:** \_\_\_\_\_

**Information you believe this person can provide to support the allegations stated in this complaint:**

*If more space is needed to list additional witnesses, please check this box and attach additional sheets as necessary.*

**Documentation**

Attach copies of any documents in your possession that relate to the allegations stated in this complaint. In addition, indicate below whether there are other records, not in your possession, that you believe may assist the City in its evaluation of this complaint.

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**Additional Information**

Provide any additional information that you believe may assist the City in its evaluation of this complaint.

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**Related Complaints**

Are there any current or open complaints related to this complaint?  Yes  No

Have you made the same or similar allegations to another agency or court?  Yes  No

If yes, identify the agency or court below and attach a copy of any complaint or other written description of the allegations submitted to that agency or court.

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**CHAPTER 7**  
**OPEN MEETINGS**

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## CHAPTER 7

### OPEN MEETINGS

**7.1 Scope of this Chapter.** This Chapter discusses Arizona's Open Meeting Law, A.R.S. §§ 38-431 to -431.09, with particular emphasis on the application of the Open Meeting Law to the day-to-day operations of state officers, bodies, and agencies. This Chapter shall be conspicuously posted on the Secretary of State's website for state public bodies, the city or town clerk for municipal public bodies and the county clerk for all other local public bodies. A.R.S. § 38-431.01(G). Individuals elected or appointed to a public body shall review this Chapter at least one day before taking office. *Id.*

This Chapter does not resolve all issues that may arise under the Open Meeting Law, but rather is intended to serve as a reference for public officials who must comply with the Open Meeting Law. Officials faced with a situation not specifically addressed in this Chapter should consult their legal counsel before proceeding.

#### **7.2 Arizona's Open Meeting Law.**

**7.2.1 History of Arizona's Open Meeting Law.** All fifty states have enacted some type of legislation providing the public with a statutory right to openness in government. In addition, in 1976 the United States Congress enacted the Federal Open Meeting Act, 5 U.S.C. § 552b. Arizona enacted its Open Meeting Law in 1962 and has since amended it several times. For a detailed discussion of the early history of the Open Meeting Law through 1975, see Ariz. Att'y Gen. Op. 75-7.

**7.2.2 Legislative Intent.** The Legislature has repeatedly expressed its intent that the Open Meeting Law be construed to maximize public access to the governmental process. In first enacting the Open Meeting Law in 1962, the Legislature declared that: "It is the public policy of this state that proceedings in meetings of governing bodies of the state and political subdivisions thereof exist to aid in the conduct of the people's business. It is the intent of this act that their official deliberations and proceedings be conducted openly."

In 1978, after a series of court opinions narrowly construing the Open Meeting Law, the Legislature reiterated its policy by adding A.R.S. § 38-431.09(A). That statute now provides:

It is the public policy of this state that meetings of public bodies be conducted openly and that notices and agendas be provided for such meetings which contain such information as is reasonably necessary to inform the public of the matters to be discussed or decided. Toward this end, any person or

entity charged with the interpretation of this article shall construe any provision of this article in favor of open and public meetings.

A.R.S. § 38-431.09(A).

In keeping with this expressed intent, any uncertainty under the Open Meeting Law should be resolved in favor of openness in government. Any question whether the Open Meeting Law applies to a certain public body likewise should be resolved in favor of applying the law.

### **7.3 Government Bodies Covered by the Open Meeting Law.**

**7.3.1 Generally.** The provisions of the Open Meeting Law apply to all public bodies. A public body is defined in A.R.S. § 38-431(6) as follows:

“Public body” means the legislature, all boards and commissions of this state or political subdivisions, all multimember governing bodies of departments, agencies, institutions and instrumentalities of this state or political subdivisions, including without limitation all corporations and other instrumentalities whose boards of directors are appointed or elected by this state or a political subdivision. Public body includes all quasi-judicial bodies and all standing, special or advisory committees or subcommittees of, or appointed by, the public body. Public body includes all commissions and other public entities established by the Arizona Constitution or by way of ballot initiative, including the independent redistricting commission, and this article applies except and only to the extent that specific constitutional provisions supersede this article.

This definition specifically includes public bodies of all political subdivisions. A political subdivision is defined in A.R.S. § 38-431(5) to include "all political subdivisions of this state, including without limitation all counties, cities and towns, school districts and special districts."

The definition encompasses five basic categories of public bodies: 1) boards, commissions, and other multimember governing bodies, including those “established by the Arizona Constitution or by way of ballot initiative;” 2) quasi-governmental corporations; 3) quasi-judicial bodies; 4) advisory committees; and 5) standing and special committees and subcommittees of any of the above. See A.R.S. § 38-431(6).

**7.3.2 Boards and Commissions.** The Open Meeting Law covers all boards and commissions and other multimember governing bodies of the state or its political

subdivisions or of the departments, agencies, institutions, and instrumentalities of the state or its political subdivisions. See A.R.S. § 38-431(6). The multimember governing body must be created by law or by an official act pursuant to some legal authority. See *id.* Examples of public bodies created by law include the Arizona Legislature, county boards of supervisors, city and town councils, school boards, the governing boards of special districts, and all state, county, and municipal licensing and regulatory boards. See, e.g., Ariz. Att’y Gen. Op. 107-001 (Open Meeting Law applies to board appointed by governing bodies of various political subdivisions to administer employee benefits program). Ariz. Att’y Gen. Op. 104-001 (Open Meeting Law applies to joint underwriting association because it’s a multimember governing body created by statute). In addition, the Legislature amended the definition of public body specifically to include “all commissions and other public entities established by the Arizona Constitution or by way of ballot initiative, including the independent redistricting commission, and this article applies except and only to the extent that specific constitutional provisions supersede this article.” A.R.S. § 38-431(6).

The Open Meeting Law applies only to multimember bodies and does not apply to the deliberations and meetings conducted by the single head of an agency. See Ariz. Att’y Gen. Ops. 192-007, 75-7. Accordingly, the director of a department or state agency is not subject to the Open Meeting Law when meeting with staff members to discuss the operations of the department.

**7.3.3 Quasi-Governmental Corporations.** The boards of directors of corporations and instrumentalities of the state or its political subdivisions are subject to the Open Meeting Law when the members of the board are appointed or elected by the state or its political subdivisions. See A.R.S. § 38-431(5), (6). In order to determine whether a quasi-governmental corporation or other entity is an “instrumentality,” and thus a “public body,” under the Open Meeting Law, one should consider the following factors that indicate the degree to which governmental interests dominate the nature of the entity. See Ariz. Att’y Gen. Op. 107-001.

1. The entity's origin (whether it was created by the government or independently of the government). For example, the Open Meeting Law does not apply to a private non-profit hospital association that has a board of directors elected by the electorate of the hospital district. *Prescott Newspapers, Inc. v. Yavapai Cmty. Hosp. Ass'n*, 163 Ariz. 33, 785 P.2d 1221 (App. 1989). See Ariz. Att’y Gen. Op. 107-001.
2. The nature of the function assigned to and performed by the entity, *i.e.*, whether that function is one traditionally associated with government or is one commonly performed by private entities. For example, the board of trustees of a trust formed by several public bodies to administer employee benefit programs on their behalf would have a governmental function that supports a finding that the board is a public body.

3. The scope of authority granted to and exercised by the entity, *i.e.*, whether the entity has authority to make binding governmental decisions or is it limited to making nonbinding recommendations.
4. The nature and level of government financial involvement with the entity.
5. The nature and scope of government control over the entity's operation.
6. The status of the entity's officers and employees, *i.e.*, whether the officers and employees are government officials or government employees.

**7.3.4 Quasi-Judicial Bodies.** The Open Meeting Law defines a quasi-judicial body as "a public body, other than a court of law, possessing the power to hold hearings on disputed matters between a private person and a public agency and to make decisions in the general manner of a court regarding such disputed claims." A.R.S. § 38-431(7). The legislature added this definition in 1978 to reverse the Arizona Supreme Court's decision in *Ariz. Press Club, Inc. v. Ariz. Bd. of Tax Appeals*, 113 Ariz. 545, 558 P.2d 697 (1976), which held that the Open Meeting Law did not apply to bodies conducting quasi-judicial functions, such as license revocation proceedings. See Ariz. Att'y Gen. Op. 78-245. The Arizona Board of Tax Appeals and similar quasi-judicial bodies are now covered by the Open Meeting Law. A.R.S. § 38-431(6), (7).

Contested case proceedings or quasi-judicial or adjudicatory proceedings conducted by public bodies are subject to all of the requirements of the Open Meeting Law. *Rosenberg v. Ariz. Bd. of Regents*, 118 Ariz. 489, 578 P.2d 168 (1978); *City of Flagstaff v. Bleeker*, 123 Ariz. 436, 600 P.2d 49 (App. 1979); Ariz. Att'y Gen. Op. 75-7.

**7.3.5 Advisory Committees.** Advisory committees are subject to all of the requirements of the Open Meeting Law. A.R.S. § 38-431(6). An advisory committee is defined as

any entity, however designated, that is officially established, on motion and order of a public body or by the presiding officer of the public body, and whose members have been appointed for the specific purpose of making a recommendation concerning a decision to be made or considered or a course of conduct to be taken or considered by the public body.

A.R.S. § 38-431(1).

This definition does not include advisory groups established by the single head of an agency unless they are created pursuant to a statute, city charter, or other provision of law or by an official act pursuant to some legal authority. See Ariz. Att'y Gen. Op. 192-007; Section 7.3.2.

**7.3.6 Special and Standing Committees and Subcommittees.** Special and standing committees and subcommittees of, or appointed by, any of the public bodies described above are also covered by the Open Meeting Law. A.R.S. § 38-431 (6). A special or standing committee may consist of members of the public body who have been appointed by or authorized to act for the public body. A.R.S. § 38-431(6). The fact that a committee consists, in whole or in part, of persons who are not members of the public body does not affect its status as a public body subject to the Open Meeting Law. See Ariz. Att'y Gen. Op. 180-202.

**7.4 Government Bodies and Proceedings Not Covered by the Open Meeting Law.** Certain public bodies need not comply with all or portions of the Open Meeting Law in particular circumstances. This section identifies some of those limited exceptions.

**7.4.1 Judicial Appointment Commissions.** The Commissions on Appellate and Trial Court Appointments and the Commission on Judicial Qualifications are expressly exempt from the Open Meeting Law. A.R.S. § 38-431.08(A)(3).

**7.4.2 Proceedings Before Courts.** The Open Meeting Law does not apply to judicial proceedings of courts within the judicial branch of government. A.R.S. §§ 38-431(7), -431.08(A)(1).

**7.4.3 The Legislature.** Meetings of legislative conference committees must be open to the public; however, the committees are exempted from all other requirements of the Open Meeting Law. A.R.S. § 38-431.08(A)(2). The Open Meeting Law does not apply to the activities of a political caucus of the Legislature. *Id.* § (A)(1); *cf.* Ariz. Att'y Gen. Op. 183-128. The Open Meeting Law permits either house of the Legislature to adopt a rule or procedure exempting itself from the notice and agenda requirements of the Open Meeting Law or to allow standing or conference committees to meet through technological devices rather than in person. A.R.S. § 38-431.08(D).

**7.4.4 Student Disciplinary Proceedings.** Actions concerning the "discipline, suspension or expulsion of a pupil" are not subject to the Open Meeting Law. A.R.S. § 15-843(A). This same statute, however, prescribes the procedures that the school board must follow in handling these matters.

**7.4.5 Insurance Guaranty Fund Boards.** Special meetings of the property and casualty insurance guaranty fund in which the financial condition of any member insurer is discussed are exempt from the Open Meeting Law. A.R.S. § 20-671.

**7.4.6 Hearings Held in Prison Facilities.** Hearings held by the Board of Pardons and Paroles in a prison facility are subject to the Open Meeting Law, but the Director of the State Department of Corrections may prohibit certain individuals from attending such hearings because they pose a serious threat to the safety and security of others or the prison. Other conditions on attendance, such as signing an attendance log and submitting to a reasonable search, may be imposed as well. A.R.S. § 38-431.08(B).

**7.4.7 Board of Fingerprinting.** Good cause exception hearings conducted by the Board of Fingerprinting pursuant to A.R.S. § 41-619.55 are exempt from the Open Meeting Law. A.R.S. § 38-431.08(A)(4).

**7.4.8 Homeowners Associations.** Because they are not governmental "public bodies," homeowners associations are not covered by the Open Meeting Law. Ariz. Att'y Gen. Op. 97-012. They must, however, comply with separate notification requirements. *Id.* Those requirements must be enforced privately because the Attorney General and County Attorneys have no jurisdiction over such matters. For more information on the requirements of homeowners associations, see A.R.S. § 33-1801 *et seq.*

## **7.5 Actions and Activities Covered by the Open Meeting Law.**

**7.5.1 Generally.** All meetings of a public body shall be public, and all persons desiring to attend shall be permitted to attend and listen to the deliberations and proceedings. A.R.S. § 38-431.01(A). All legal action of public bodies shall occur during a public meeting. *Id.* A meeting is defined as "the gathering, in person or through technological devices, of a quorum of the members of a public body at which they discuss, propose or take legal action, including any deliberations by a quorum with respect to that action." A.R.S. § 38-431(4). It does not matter what label is placed on a gathering; it may be called a "work" or "study" session, or the discussion may occur at a social function. Ariz. Att'y Gen. Op. 179-4.

Put simply, all discussions, deliberations, considerations, or consultations among a majority of the members of a public body regarding matters that may foreseeably require final action or a final decision by the governing body, constitute "legal action" and, therefore, must be conducted in a public meeting or executive session in accordance with the Open Meeting Law. Ariz. Att'y Gen. Ops. 75-8, 179-4. See also A.R.S. §§ 38-431.01(A), -431(3) and Ariz. Att'y Gen. Op. 105-004. The key to this inquiry is whether the matter to be discussed may foreseeably require final action. It is difficult to say precisely when this foreseeability test has been met. Each case should be viewed on its own merits with doubts resolved in favor of compliance with the Open Meeting Law. The safest course of action is to assume the Open Meeting Law applies whenever a majority of the body discusses the business of the public body.

"Even if communications on a particular subject between members of a public body do not take place at the same time or place, the communications can nonetheless constitute a 'meeting.'" See *Del Papa v. Bd. of Regents of Univ. and Cmty. Coll. Sys. Of Nev.*, 114 Nev. 388, 393, 956 P.2d 770, 774 (1998) (rejecting the argument that a meeting did not occur because the board members were not together at the same time and place). Accordingly, the definition of meeting was modified by the Arizona Legislature in 2000 to prohibit a quorum of a public body from secretly communicating through technological devices (including, for example, facsimile machines, telephones, texting, and e-mail), and further modified in 2018 in order to provide additional guidance on electronic

communications. The following instances of electronic communication are now expressly considered “meetings” under the Open Meeting Law:

1. “A one-way electronic communication by one member of a public body that is sent to a quorum of the members of a public body and that proposes legal action.”
2. “An exchange of electronic communications among a quorum of the members of a public body that involves a discussion, deliberation or the taking of legal action by the public body concerning a matter likely to come before the public body for action.”

A.R.S. § 38-431(4)(b). If an electronic communication from one member of the public body proposes legal action and is sent to enough members of the public to form a quorum, a violation occurs even if no member of the public body responds to the electronic communication. A.R.S. § 38-431(4)(b)(i). However, other one-way communications, with no further exchanges, are not *per se* violations, and further examination of the facts and circumstances would be necessary to determine if a violation occurred. Ariz. Att’y Gen. Op. I05-004.

While discussion of the public body's business may take place only in a public meeting or an executive session in accordance with the requirements of the Open Meeting Law, the Open Meeting Law does not prohibit a member of a public body from voicing an opinion or discussing an issue with the public either at a venue other than a public meeting of the body, or through media outlets or other public broadcast communications or technological means, so long as the "opinion or discussion is not principally directed at or directly given to another member of the public body," and "there is no concerted plan to engage in collective deliberation to take legal action." A.R.S. § 38-431.09(B); Ariz. Att’y Gen. Op I07-013.

**7.5.2 Circumventing the Open Meeting Law.** Discussions and deliberations (in person or otherwise) between less than a majority of the members of a governing body, violate the Open Meeting Law when used to circumvent the purposes of the Open Meeting Law. See Ariz. Att’y Gen. Op. 75-8; *Town of Palm Beach v. Gradison*, 296 So. 2d 473 (Fla. 1974). Public officials may not circumvent public discussion by splintering the quorum and having separate or serial discussions with a majority of the public body members. Splintering the quorum can be done by meeting in person, by telephone, electronically, or through other means to discuss a topic that has been or later may be presented to the public body for a decision. Public officials should refrain from any activities that may undermine public confidence in the public decision making process established in the Open Meeting Law, including actions that may appear to remove discussions and decisions from public view.

**7.5.3 Applicability to Staff Members and Others.** The Open Meeting Law further provides that members of public bodies shall not knowingly direct any staff member to

communicate in violation of the Open Meeting Law. A.R.S. § 38-431.01(I). People knowingly aiding, agreeing to aid or attempting to aid another person in violating the Open Meeting Law can be liable for civil penalties, attorneys' fees, and costs pursuant to A.R.S. § 38-431.07(A). See Sections 7.13.3 and 7.13.4. Splintering a quorum may also occur when members of a public body share their positions and proposals with other public body members through staff members or other non-members. For example, a staff member who meets with each member individually regarding official business and then shares the comments made by other members would violate the Open Meeting Law. Although a staff member may provide information to members separately (see Ariz. Att'y Gen. Op. 105-004 at 9), that person must be careful not to facilitate a discussion or deliberation by a quorum through sharing information with other members in subsequent meetings.

## **7.6 Notice of Meetings.**

**7.6.1 Generally.** The Open Meeting Law generally requires at least twenty-four hour advance notice of all meetings to the public body and to the general public. A.R.S. § 38-431.02(C). Notice enables members of the public to attend public meetings by informing them of when and where to go, and how to get information regarding the matters under consideration. Arizona courts have emphasized the importance of sufficient notice. The Arizona Court of Appeals explained, "[t]he notice provisions in the open meeting law are obviously designed to give meaningful effect to provisions such as A.R.S. §§ 38-431.01(A) and 38-431.09. The goal of exposing the public decision-making process to the public itself could be significantly, if not totally thwarted, in the absence of mandatory notice provisions and their enforcement." *Carefree Improvement Ass'n v. City of Scottsdale*, 133 Ariz. 106, 111, 649 P.2d 985, 990 (App. 1982).

**7.6.2 Notice to Members of the Public Body.** Notice of all meetings, including executive sessions, must be given to the members of the public body. A.R.S. § 38-431.02(B), (C).

**7.6.3 Notice to the Public.** Notice of all meetings, including executive sessions, must be given to the public. A.R.S. § 38-431.02. Giving public notice is a two-step process. *Id.*

**7.6.3.1 Disclosure Statement.** The first step is for the public body to conspicuously post a disclosure statement identifying the physical and electronic locations where public notices of meetings will be displayed. A.R.S. § 38-431.02(A). See Form 7.1. Public bodies of the State, counties, school districts, and governing bodies of charter schools must post the disclosure statement on their websites. *Id.* § (A)(1)-(2). Special districts governed by Title 48, A.R.S., must post the required disclosure statement on their own website or may file it with the Clerk of the Board of Supervisors. *Id.* § (A)(3). Public bodies of cities and towns must post the required information on their own websites or on the website of an association of towns and cities. *Id.* § (4). The notification location identified in the statement must be a place to which the public has reasonable access.

*Carefree Improvement Ass'n v. City of Scottsdale*, 133 Ariz. 106, 111, 649 P.2d 985, 990 (App. 1982). The location should have normal business hours, should not be geographically isolated, should not have limited access, and should not be difficult to find.

**7.6.3.2 Public Notice of Meetings.** Once the disclosure statement has been filed or posted, the second step is for the public body to give notice of each of its meetings by posting a copy of the notice on its website as well as at the location identified in the disclosure statement. A.R.S. § 38-431.02(A). See Forms 7.2, 7.3, 7.4. Public bodies shall also give "additional public notice as is reasonable and practicable as to all meetings." *Id.* § (A)(1)(a).

If there is a "technological problem or failure that either prevents the posting of public notices on a website or that temporarily or permanently prevents the use of all or part of the website" and all other public notice requirements are met, then the meeting can convene as scheduled. *Id.* § (A)(1)(b). Given the possibility of complaints or litigation in such situations, the public body should document the nature and duration of the technological problem or failure along with an explanation of how it affected the ability of the public body to post proper notice of the public meeting.

In addition to complying with the requirements of the Open Meeting Law, the notice should conform with the provisions of the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12101 - 12213. See Section 15.27. This may include the addition of a statement such as the following in any notices that the public body issue: "Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting [name of designated agency contact person] at [telephone number and TDD telephone number]. Requests should be made as early as possible to allow time to arrange the accommodation."

**7.6.4 Contents of the Notice.** Generally, the notice should include information identifying the public body and the date, time, and place of the meeting. See Forms 7.2, 7.3. In identifying the place of the meeting, the notice should specify the street address of the building and the room number or other information identifying the specific room in which the meeting will be held. See Form 7.7 (Sample Notice and Agenda).

In addition, notices of public meetings and notices of executive sessions must contain an agenda of the matters to be considered by the public body at the meeting or information on how the public may obtain a copy of such an agenda. A.R.S. § 38-431.02(G). For a complete discussion of the agenda requirements, see Section 7.7. Notice of a public meeting at which the public body intends to ratify a prior act must contain additional specific information. See Section 7.12; Form 7.12.

**7.6.5 Time for Giving Notice.** As a general rule, a meeting may not be held without giving the required notice at least twenty-four hours before the meeting. A.R.S. § 38-431.02(C). For purposes of the statute, the twenty-four hour period excludes Sundays and holidays. *Id.* Saturdays are included in the period if the public has access to

the physical and electronic posted locations. *Id.* Of course, the best practice is for public bodies to give as much notice as possible. The public body may consider including with the notice a certification by the person responsible for posting the notice that states the time and location that the notice was posted. See Form 7.8 below.

There are three exceptions to the twenty-four hour notice requirement.

First, in the case of an "actual emergency," the meeting may be held upon such shorter notice as is "appropriate to the circumstances." § 38-431.02(D). An actual emergency exists when, due to unforeseen circumstances, immediate action is necessary to avoid some serious consequence that would result from waiting until the required notice could be given. See *Carefree Improvement Ass'n v. City of Scottsdale*, 133 Ariz. 106, 113, 649 P.2d 985, 992 (App. 1982). The existence of an actual emergency does not dispense with the need to give twenty-four hours written notice to an employee who is to be discussed in executive session. A.R.S. § 38-431.03(A)(1); Ariz. Att'y Gen. Op. I90-19; see Sections 7.7.9 and 7.9.5.1.

Second, notice of a meeting at which the public body will consider ratifying a prior act taken in violation of the Open Meeting Law must be given seventy-two hours in advance of the meeting. A.R.S. § 38-431.05(B)(4); see Section 7.12.

Finally, less than twenty-four hours notice may be given when a properly noticed meeting is recessed to the next day. A.R.S. § 38-431.02(E). A meeting may be recessed and resumed with less than twenty-four hour notice if public notice of the initial session of the meeting is given and, if before recessing, notice is publicly given as to the time and place of the resumption of the meeting or the method by which notice shall be publicly given. *Id.* Notice of the resumption of a meeting must comply with the agenda requirements respecting the matters to be addressed when resumed. *Id.* § (G). This may be accomplished by the presiding officer of the public body either stating at the meeting the time, place, and agenda of the resumed meeting or stating where a written notice and agenda of the resumed meeting will be posted. If an executive session is to be recessed and resumed with less than twenty-four hour notice, the time, place, and agenda of the resumed meeting should be communicated to the members of the public body and to the public by reconvening in public session and following one of the two steps described above. If the meeting will not reconvene for more than twenty-four hours, a new meeting notice and agenda is recommended.

**7.6.6 Notice of Regular Meetings.** A public body that intends to meet for a specified calendar period on a regular day or date during the calendar period, and at a regular place and time, may post public notice of such meetings at the beginning of such period and need not post additional notices for each meeting. A.R.S. § 38-431.02(F); see Form 7.4. The notice must specify the applicable notice period. *Id.* However, this method of posting notice will not satisfy the agenda requirements unless the notice also contains a clear statement that the agenda for any such meeting will be available at least twenty-four

hours in advance of the meeting and a statement as to where and how the public may obtain a copy of the agenda. A.R.S. § 38-431.02(G).

**7.6.7 Notice of Executive Sessions.** When a public body intends to conduct an executive session, the notice must state the specific provision of law authorizing the executive session. A.R.S. § 38-431.02(B); see Form 7.5. This provision requires that the notice specify the numbered paragraph of subsection (A) of A.R.S. § 38-431.03 that authorizes the executive session. A general citation to A.R.S. § 38-431.03 or subsection (A) of that section is insufficient. For example, a public body intending to meet in executive session for purposes of discussing the purchase or lease of real property must cite in its notice "A.R.S. § 38-431.03(A)(7)." The public body must cite only the paragraphs applicable to the matters to be discussed and cannot issue a standardized form notice that cites all executive session provisions. In addition, an agenda is required for an executive session and must contain only a "general description of the matters to be considered." A.R.S. § 38-431.02(I); see Section 7.7.3.

In the case of an executive session concerning personnel matters, the public body must give written notice to the affected officer, appointee, or employee in addition to the public notice described above. A.R.S. § 38-431.03(A)(1); see Section 7.9.5.1; Form 7.13. Such written notice must be provided not less than twenty-four hours before the scheduled meeting. A.R.S. § 38-431.03(A)(1).

Many public bodies do not know whether they will have any legal questions regarding matters on the agenda until the discussion occurs. The Attorney General previously opined that public bodies may provide with their notices and agendas a statement that matters on the public meeting agenda may be discussed in executive session for the purpose of obtaining legal advice thereon, pursuant to A.R.S. § 38-431.03(A)(3). Ariz. Att'y Gen. Op. I90-19. An example of such a statement is "The Board may vote to hold an executive session for the purpose of obtaining legal advice from the Board's attorney on any matter listed on the agenda pursuant to A.R.S. § 38-431.03(A)(3)." Similar statements are not sufficient for other types of executive sessions. See Section 7.7 for further discussion.

**7.6.8 Maintaining Records of Notice Given.** Best practice provides that each public body keep a record of its notices, including a copy of each notice that was posted and information regarding the date, time, and place of posting. A suggested procedure is to file in the records of the public body a copy of the notice and a certification in a form similar to Form 7.8.

## **7.7 Agendas.**

**7.7.1 Generally.** In addition to notice of the time, date, and place of the meeting, the public body must provide an agenda of the matters to be discussed, considered, or decided at the meeting. A.R.S. § 38-431.02(G).

Although this Section provides guidelines for the preparation of agendas, it does not answer every question that may arise. Specific problems should be discussed with the public body's legal counsel. As a general rule, public bodies should always be mindful of the Legislature's declaration of policy that agendas "contain such information as is reasonably necessary to inform the public of the matters to be discussed or decided." A.R.S. § 38-431.09(A). When in doubt, resolve questions in favor of greater disclosure of information.

**7.7.2 Contents of the Agenda -- Public Meeting.** The agenda for a public meeting must contain a listing of the "specific matters to be discussed, considered or decided at the meeting." A.R.S. § 38-431.02(H). This requirement does not permit the use of generic agenda items such as "personnel," "new business," "old business," "reports," or "other matters" unless the specific matters or items to be discussed are separately identified in conjunction with the general terms. See *Thurston v. City of Phoenix*, 157 Ariz. 343, 344, 757 P.2d 619, 620 (App. 1988). The degree of specificity depends on the circumstances. See Form 7.7 (Sample Notice and Agenda). Consider the following examples:

- "Discussion and possible action to approve the application of pesticides within 1/4 mile of a school" if an environmental board is going to consider whether to approve the application of any pesticide within 1/4 mile of a school;
- "Discussion and possible action to remove Pesticide-A from list of approved pesticides" if the environmental board is going to consider removing a specific pesticide from an approved list;
- "Discussion and possible action regarding budget priorities and revisions for upcoming fiscal year" if a board intends to generate and discuss a number of different options for managing its budget;
- "Discussion and possible action regarding elimination of funding from budget for travel reimbursements, computer upgrades, and laptops for board members" if a board intends to only focus on specific options to revise a budget.

If it is likely that the public body will find it necessary to discuss any particular agenda item in executive session with the public body's attorney, the agenda should plainly state so, even if the general notice of executive session for legal advice is on the agenda. For example, the agenda might include a provision stating "The Board may vote to hold an executive session for the purpose of obtaining legal advice from the Board's attorney on the approval of pesticides for application within ¼ mile of a school pursuant to A.R.S. § 38-431.03(A)(3)."

**7.7.3 Contents of the Agenda -- Executive Session.** The agenda for an executive session must contain a "general description of the matters to be considered." A.R.S. § 38-431.02(l). The description must amount to more than just a recital of the statutory provisions authorizing the executive session, but should not contain any information that "would defeat the purpose of the executive session, compromise the legitimate privacy interests of a public officer, appointee or employee or compromise the attorney-client privilege." *Id.*

In preparing executive session agenda items, the public body must weigh the legislative policy favoring public disclosure and the legitimate confidentiality concerns underlying the executive session provision. For example, if a board desires to consider the possible dismissal of its executive director, the board may list on the agenda "Personnel matter - consideration of continued employment of the board's executive director." However, when the public disclosure of the board's consideration of charges against an employee might needlessly harm the employee's reputation or compromise the employee's privacy interests, the board may eliminate from the agenda a description of the identity of the employee being considered, but must still indicate on the agenda that an employee of the public body is the subject of the executive session. If it is already publicly known that the board is considering charges against the employee, disclosure of the employee's identity in the agenda would not defeat the purpose of the executive session.

**7.7.4 Distribution of the Agenda.** The agenda may be made available to the public by including it as part of the public notice or by stating in the public notice how the public may obtain a copy of the agenda and then distributing the agenda in the manner prescribed. A.R.S. § 38-431.02(G); see Forms 7.2 - 7.4, 7.6, 7.7. Because both the public notice and the agenda must be available at least twenty-four hours in advance of a meeting, the simplest procedure is to include the agenda with the public notice. See Form 7.7 (Sample Notice and Agenda). However, when issuing public notice well in advance of a meeting, as in the case of notice of regularly scheduled meetings, see Section 7.6.6, it may be more appropriate to state how the public may obtain a copy of the agenda and distribute it accordingly.

**7.7.5 Consent Agendas.** Public bodies may use "consent agendas" if they meet certain requirements. Consent agendas are typically used as a time-saving device when there are certain items on the agenda which are unlikely to generate controversy and are ministerial in nature. Some examples are approval of travel requests and approval of minutes. Public bodies often take one vote to approve or disapprove the consent agenda as a whole. When using a consent agenda format for some of the items on a meeting agenda, public bodies should fully describe the matters on the agenda and inform the public where more information can be obtained. A good practice is to require the removal of an item from the consent agenda upon the request of any member of the public body. See Form 7.7 (Sample Notice and Agenda).

Public bodies should exercise caution when using consent agendas. The Arizona Supreme Court previously held that taking legal action, taken after an executive session,

must be preceded by a disclosure of "that amount of information sufficient to apprise the public in attendance of the basic subject matter of the action so that the public may scrutinize the action taken during the meeting." *Karol v. Bd. of Educ. Trustees*, 122 Ariz. 95, 98, 593 P.2d 649, 652 (1979). The Court also condemned the practice of voting on matters designated only by number, thereby effectively hiding actions from public examination. *Id.*

**7.7.6 Discussing and Deciding Matters Not Listed on the Agenda.** The public body may discuss, consider, or decide only those matters listed on the agenda and "other matters related thereto." A.R.S. § 38-431.02(H). The "other matters" clause provides some flexibility to a public body but should be construed narrowly. The "other matters" must in some reasonable manner be "related" to an item specifically listed on the agenda. *Thurston v. City of Phoenix*, 157 Ariz. 343, 344, 757 P.2d 619, 620 (App. 1988).

If a matter not specifically listed on the agenda is brought up during a meeting, the better practice, and the one that will minimize subsequent litigation, is to defer discussion and decision on the matter until a later meeting so that the item can be specifically listed on the agenda. If the matter demands immediate attention and is a true emergency, the public body should consider using the emergency exception described in Section 7.7.9.

However, if action is taken at a meeting on an item not properly noticed, then that particular action violates the Open Meeting Law and is null and void. *Johnson v. Tempe Elementary Sch. Dist. No. 3 Governing Bd.*, 199 Ariz. 567, 570, 20 P.3d 1148, 1151 (App. 2001); A.R.S. § 38-431.05(A). The public body may ratify the action pursuant to A.R.S. § 38-431.05(B), although the violation may still subject the public body to the penalties described in A.R.S. § 38-431.07(A). Any other actions that were taken at the meeting and were properly noticed are not void. *Karol v. Bd. of Educ. Trustees*, 122 Ariz. 95, 98, 593 P.2d 649, 652 (1979); Ariz. Att'y Gen. Op. I08-001.

**7.7.7 Calls to the Public.** A public body may include a call to the public on a meeting agenda. A.R.S. § 38-431.01(H); see also Section 7.10.1 for more discussion on public participation. Should a public body include a call to the public during a public meeting, members of the public body may not discuss or take action on matters raised during the call to the public that are not specifically identified on the agenda. A.R.S. § 38-431.01(H). Individual public body members may, however, respond to criticism made by those who have addressed the public body, ask staff to review a matter, or ask that a matter be put on a future agenda. *Id.*; see also Ariz. Att'y Gen. Op. I99-006.

The best practice is to include language similar to the following on the agenda to explain in advance the reason members of the public body cannot respond to topics brought up during the call to the public that are not on the agenda: "Call to the Public: This is the time for the public to comment. Members of the Board may not discuss items that are not specifically identified on the agenda. Therefore, pursuant to A.R.S. § 38-431.01(H), action taken as a result of public comment will be limited to

directing staff to study the matter, responding to any criticism or scheduling the matter for further consideration and decision at a later date."

**7.7.8 Current Event Summaries.** The Open Meeting Law allows the chief administrator, presiding officer or a member of a public body to present a brief summary of current events without listing in the agenda the specific matters to be summarized, provided that the summary is listed on the agenda and that the public body does not propose, discuss, deliberate or take legal action at that meeting on any matter in the summary unless the specific matter is properly noticed for legal action. A.R.S. § 38-431.02(K). Thus, the summary of current events consists merely of one of the above-referenced people summarizing recent occurrences without any discussion or feedback from the remainder of the public body. The agenda should specifically list "Summary of Current Events" as an agenda item and identify who will present the summary.

Reports that address matters other than a summary of current events or that are delivered by someone other than a proper official with the public body do not come within the provision authorizing current events summaries and must comply with the agenda requirements of the Open Meeting Law. The only report that can be given without listing the contents of the presentation is the brief summary of current events by the chief administrator, the presiding officer of the Council, or a member under A.R.S. § 38-431.02(K). As to other reports presented to a public body, the agenda must list descriptions of the topics that will be presented and state whether the public body will discuss or take action on such matters. A generic agenda item, such as "Police Department Report," "Fire Department Report," or "Executive Director Report" does not satisfy the requirement that the agenda provide information that is "reasonably necessary to inform the public of the matters to be discussed or decided." A.R.S. § 38-431.02(H). Public bodies should limit the use of the current events summary provision to appropriate situations and should strive to provide as much advance information as possible to the public.

**7.7.9 Emergencies.** A public body may discuss, consider, and decide a matter not on the agenda when an actual emergency exists requiring that the body dispense with the advance notice and agenda requirements. A.R.S. § 38-431.02(D). See Section 7.6.5 for a discussion of what constitutes an actual emergency.

To use the emergency exception, the public body must do several things. First, the public body must give "such notice as is appropriate to the circumstances." A.R.S. § 38-431.02(D). Next, prior to the emergency discussion, consideration, or decision, the public body must announce in a public meeting the reasons necessitating the emergency action. A.R.S. § 38-431.02(J). If the emergency discussion or consideration is to take place in an executive session, this public announcement must occur at a public meeting prior to the executive session. *Id.*

After the emergency exception has been used, "the public body must post a public notice within twenty-four hours declaring that an emergency session has been held," which sets forth the same information required in an agenda for a regular meeting. A.R.S. § 38-431.02(D); see Form 7.9.

Additionally, the public body must place in the minutes of the meeting a statement that sets forth the reasons necessitating the emergency discussion, consideration, or decision. A.R.S. § 38-431.02(J). In the case of an executive session, this statement will appear twice, once in the minutes of the public meeting where the reasons were publicly announced, and again in the minutes of the executive session where the emergency discussion or consideration took place. See Sections 7.8.2(8) and 7.8.3(5).

**7.7.10 Changes to the Agenda.** If a public body finds it necessary to change an agenda by modifying the listed matters or adding new ones, a new agenda must be prepared and distributed in the same manner as the original agenda, at least twenty-four hours in advance of the meeting. Ariz. Att'y Gen. Op. 179-45. Changes in the agenda within twenty-four hours of the meeting may be made only in case of emergency. Ariz. Att'y Gen. Op. 179-192; see Section 7.7.9. However, the public body is not required to discuss or act on an item that appears on the agenda for the meeting and can vote at the meeting to remove agenda items from consideration without violating the Open Meeting Law.

**7.8 Minutes.** Minutes must be taken of all public meetings and executive sessions. A.R.S. § 38-431.01(B)

**7.8.1 Form of and Access to the Minutes.** Minutes may be taken in writing or may be recorded by an audio or video recorder. A.R.S. § 38-431.01(B); see Forms 7.10, 7.11. Written minutes or a recording of a public meeting must be available for public inspection within three working days after the meeting. A.R.S. § 38-431.01(D). Public bodies concerned about distributing minutes before they have been officially approved at a subsequent meeting should mark the minutes "draft" or "unapproved" and make them available within three working days of the meeting. If the minutes have been recorded by an audio or video recorder, allowing the public to have access to that recording is sufficient. However, if the minutes were taken in shorthand, those minutes must be typed or written out in longhand in order to comply with this requirement. See Form 7.10. The minutes of an executive session are confidential and may not be disclosed except to certain authorized persons. A.R.S. § 38-431.03(B); see Section 7.9.4. To ensure confidentiality and avoid inadvertent disclosure, minutes of executive sessions should be stored separately from regular session minutes.

The approved minutes of council meetings for cities or towns with a population of more than 2,500 persons must be posted on the city's website within two working days of their approval. A.R.S. § 38-431.01(E)(2). Minutes must be reduced to a form that is readily accessible to the public. See A.R.S. § 38-431.01(D). Additionally, a public body of a city or a town with a population exceeding 2,500 people shall, within three working days

after any meeting, post on its website a statement showing legal actions taken by the public body or any recordings made during the meeting. A.R.S. § 38-431.01(E)(1). Subcommittees and advisory committees of such public bodies have ten working days after the meeting to post the recording or statement. A.R.S. § 38-431.01(E)(3), (J). Such posted minutes, statements, and recordings shall remain accessible on the website for at least one year after the meeting. *Id.* § (J). In addition, any recordings and minutes are public records subject to record retention requirements.

**7.8.2 Contents of the Minutes of Public Meetings.** The minutes of a public meeting must contain the following information:

1. "The date, time and place of the meeting." A.R.S. § 38-431.01(B)(1).
2. "The members of the public body recorded as either present or absent." *Id.* § (B)(2).
3. "A general description of the matters [discussed or] considered." *Id.* § (B)(3). Minutes must contain information regarding matters considered or discussed at the meeting even though no formal action or vote was taken with respect to the matter. *See id.* § (B)(4). Although the minutes do not need to be a verbatim transcript of the meeting to satisfy this requirement, they must summarize the discussion, including the topics addressed, and identify all speakers who participated in the discussion, including members of the public body.
4. "An accurate description of all legal actions proposed, discussed or taken, including a record of how each member voted." *Id.* Best practice includes roll call votes in most circumstances, as this encourages open government. However, for voice votes, minutes should still include a record of how each member voted, which includes noting abstentions, recusals, or those otherwise not voting. This could be accomplished in several ways. One way of ensuring such a recording would be to follow any voice vote for which no dissent or disagreement was noted with a request that any member who abstained or otherwise did not vote identify themselves; this would ensure the ability to record in detail how each member voted.
5. "[T]he names of the members who propose each motion[.]" *Id.*
6. "[T]he names of the persons, as given, who make statements or present material to the public body and a [specific] reference to the legal action," (see item 4) to which the statement or presentation relates. *Id.*
7. If the discussion in the public session did not adequately disclose the subject matter and specifics of the action taken (such as an action to approve matters on a consent agenda), the minutes of the public meeting at which

such action was taken should contain sufficient information to permit the public to investigate further the background or specific facts of the decision. See Section 7.7.5; *Karol v. Bd. Of Educ. Trustees*, 122 Ariz. 95, 98, 593 P.2d 649, 652 (1979).

8. If matters not on the agenda were discussed or decided at a meeting because of an actual emergency, the minutes must contain a full description of the nature of the emergency. A.R.S. § 38-431.02(J); see Sections 7.6.5 and 7.7.9.
9. If a prior act was ratified, the minutes must contain a copy of the disclosure statement required for ratification. A.R.S. § 38-431.05(B)(3); see Section 7.12.2; Form 7.10.

**7.8.3 Contents of the Minutes of Executive Sessions.** The minutes of executive sessions must remain confidential, except as provided in Section 7.9.4, and must contain the following information:

1. "The date, time and place of the meeting." A.R.S. § 38-431.01(B)(1), (C).
2. "The members of the public body recorded as either present or absent." *Id.* § (B)(2), (C).
3. "A general description of the matters considered." *Id.* § (B)(3), (C); see Section 7.8.2(3). Like the minutes for a public session of the public body, the minutes must summarize the discussion, including the topics addressed, and identify all speakers who participated in the discussion, including members of the public body.
4. An accurate description of all instructions given to attorneys or designated representatives pursuant to A.R.S. § 38-431.03(A)(4), (5) and (7). See Sections 7.9.5.4, 7.9.5.5 and 7.9.5.7.
5. A statement of the reasons for emergency consideration of any matters not on the agenda. See A.R.S. § 38-431.02(J); Section 7.8.2(8).
6. Such other information as the public body deems appropriate. For example, the public body might record in its minutes that those present were advised that the information discussed in the session and the session minutes are confidential. See Form 7.11.

"A party who asserts that a public body violated the open meeting laws has the burden of proving that assertion." *Tanque Verde Unified Sch. Dist. No. 13 of Pima County v. Bernini*, 206 Ariz. 200, 205, 76 P.3d 874, 879 (App. 2003). However, Arizona courts have held that once a complainant alleges facts from which a reasonable inference may be

drawn supporting an Open Meeting Law violation, the burden of proof immediately shifts to a public body to prove that an affirmative defense or exception to the Open Meeting Law authorized an allegedly inappropriate executive session. *Fisher v. Maricopa County Stadium Dist.*, 185 Ariz. 116, 122, 912 P.2d 1345, 1351 (App. 1995); *see also Tanque Verde*, 206 Ariz. at 205, 76 P.3d at 881. The best practice is for public bodies to keep an audio or video recording of the executive session or to transcribe the executive session to ensure that they are prepared to meet their burden of proof in the event a complaint is filed.

**7.9 Executive Sessions.** A.R.S. Section 38-431.03 contains an exception to the general requirement that all meetings must be open to the public. That exception is for an executive session, which is defined as "a gathering of a quorum of members of a public body from which the public is excluded for one or more of the reasons prescribed in [A.R.S.] § 38-431.03." A.R.S. § 38-431(2); *see* Sections 7.9.5.1 - 7.9.5.7.

While the Open Meeting Law does permit executive sessions for discussing certain matters, it does not require that these discussions take place in executive session. If public disclosure of the public body's discussion is not prohibited by any other statutory provision and government interests are not threatened, a public body may choose to conduct all of its discussions in a public setting.

**7.9.1 Deciding to Go Into Executive Session.** Before a public body may go into an executive session, proper notice must be provided. *See* Section 7.6.7 for a discussion of the notice required for an executive session; *see also* section 7.7.9. Once the public body is satisfied that notice requirements have been met, a majority of the members constituting a quorum must vote in a public meeting to hold the executive session. A.R.S. § 38-431.03(A). The motion must state the ground(s) for the executive session so that the public understands why the public body is entering executive session. For example, a member of the public body may make the following motion: "I move to enter executive session for the purpose of receiving legal advice on [agenda topic]." Generally, the vote will be taken immediately before going into executive session.

**7.9.2 Executive Session Requirements.** Once the majority of members of a public body votes to hold an executive session, the chairman of the public body should ask the public to leave and to take with them all materials such as briefcases and backpacks to ensure that no recording devices are left in the room. In the alternative, the public body can move to a separate room to conduct the executive session. Only members of the public body and those individuals whose presence is reasonably necessary for the public body to carry out its executive session responsibilities may attend the executive session. A.R.S. § 38-431(2). The chairman should remind all present that the business conducted in executive sessions is confidential pursuant to A.R.S. § 38-431.03(C).

**7.9.3 Taking Legal Action.** In an executive session, the public body may discuss and consider only the specific matters authorized by the statute. These specific authorizations are discussed in Sections 7.9.5.1 – 7.9.5.7. Furthermore, the public body may not take a vote or make a final decision in the executive session, but rather must

reconvene in a public meeting for purposes of taking the binding vote or making final decisions. See A.R.S. § 38-431.03(D). For example, "[a] decision to appeal transcends 'discussion or consultation' and entails a 'commitment' of public funds. Therefore, once [a] Board [has] finished privately discussing the merits of appealing, the open meeting statutes require[] that board members meet in public for the final decision to appeal." *Johnson v. Tempe Elementary Sch. Dist. No. 3 Governing Bd.*, 199 Ariz. 567, 570, 20 P.3d 1148, 1151 (App. 2001). Taking a straw poll or informal or preliminary vote in executive session is unlawful under the Open Meeting Law. See A.R.S. § 38-431.03(D). No motion or vote is taken to adjourn the executive session; the chair is responsible for adjourning the executive session and reconvening the public session.

**7.9.4 Confidentiality of Executive Sessions.** The minutes of and discussions that take place during an executive session are confidential under A.R.S. § 38-431.03(B) and may not be disclosed to anyone except the following people:

1. Any member of the public body, regardless of whether he or she attended the executive session. A.R.S. § 38-431.03(B)(1); *Picture Rocks Fire Dist. v. Updike*, 145 Ariz. 79, 81, 699 P.2d 1310, 1312 (App. 1985).
2. Any officer, appointee, or employee who was the subject of discussion at an executive session authorized by A.R.S. § 38-431.03(A)(1) may see those portions of the minutes directly pertaining to them. A.R.S. § 38-431.03(B)(2); see Section 7.9.4.
3. Staff personnel, to the extent necessary for them to prepare and maintain the minutes of the executive session.
4. The attorney for the public body, to the extent necessary for the attorney to represent the public body.
5. The Auditor General in connection with the lawful performance of its duty to audit the finances or performance of the public body. A.R.S. § 38-431.03(B)(3); Ariz. Att'y Gen. Op. 179-130.
6. The Attorney General or County Attorney when investigating alleged violations of the Open Meeting Law. A.R.S. § 38-431.03(B)(4).
7. The court, for purposes of a confidential inspection where an open meeting violation has been alleged. A.R.S. § 38-431.07(C).

The Open Meeting Law requires a public body to advise all persons attending an executive session that such minutes and information are confidential. A.R.S. § 38-431.03(C). Members of a public body and others attending the executive session must ensure that the information remains confidential. In addition to violating the Open Meeting Law, criminal charges may arise from a release of confidential information

from executive session. "A public officer or employee shall not disclose or use, without appropriate authorization, any information that is acquired by the officer or employee in the course of the officer's or employee's official duties and that is declared confidential by law." A.R.S. § 38-504(B). The law designates a knowing or intentional violation of this provision as a Class 6 felony and a reckless or negligent violation as a Class 1 misdemeanor. A.R.S. § 38-510(A). Either type of violation could lead to criminal penalties in addition to forfeiture of office or employment. A.R.S. § 38-510(B).

**7.9.5 Authorized Executive Sessions.** The Open Meeting Law identifies seven specific instances in which a public body may discuss matters in an executive session. A.R.S. § 38-431.03(A); see Sections 7.9.5.1 – 7.9.5.7. In addition, the Legislature may create specific authority for executive sessions in other statutes. See A.R.S. § 38-797.03(B) (authorizing the Arizona State Retirement System Board to hold hearings or to consider administrative law judge decisions involving long term disability benefits in executive session).

Arizona courts have strictly construed the authorized executive session topics because their legislative charge is to "promote openness in government, not to expand exceptions which could be used to obviate the rule." See *Fisher v. Maricopa County Stadium Dist.*, 185 Ariz. 116, 124, 912 P.2d 1345, 1353 (App. 1995). Thus, unless the proposed discussion plainly falls within one of the Open Meeting Law's executive session topics or is specifically authorized by the public body's enabling legislation, discussion should take place only in a public meeting.

**7.9.5.1 Personnel Matters.** The discussion or consideration of employment, assignment, appointment, promotion, demotion, salaries, discipline, resignation, or dismissal of a public officer, appointee, or employee of a public body may take place in an executive session. A.R.S. § 38-431.03(A)(1); *City of Flagstaff v. Bleeker*, 123 Ariz. 436, 438 n.2, 600 P.2d 49, 51 n.2 (App. 1979). This authorization for an executive session applies only to discussions concerning specific officers, appointees, and employees. This provision permits discussion in executive session of applicants for employment or appointment even though the applicants may not be currently employed by the public body. See Ariz. Att'y Gen. Op. 183-050.

If the public body proposes to discuss a personnel matter in an executive session, and the affected officer, appointee, or employee requests that the discussion occur in a public meeting instead, then these discussions must be conducted in a public meeting and not in an executive session. A.R.S. § 38-431.03(A)(1). Accordingly, the Open Meeting Law requires that an officer, appointee, or employee who is the subject of the discussion in executive session must be given advance written notice of the proposed executive session. *Id.* The notice given to the officer, appointee, or employee must describe the matters to be considered by the public body in a manner sufficient to enable the employee to make the initial decision whether to have the matters discussed in a public meeting. *Id.* In addition, the written notice must be given sufficiently in advance of the proposed meeting, and in no event less than twenty-four hours prior to the meeting, to enable the employee to make the

foregoing determination and to prepare an appropriate request for a public meeting. *Id.*; see Ariz. Att'y Gen. Op. 179-49. See also Form 7.13. There is no emergency exception to the requirement that an affected officer, appointee, or employee receive at least twenty-four hours' notice. See Ariz. Att'y Gen. Op. 190-19. However, the public body can discuss personnel matters in a public meeting with less than twenty-four hours' notice if an actual emergency exists. A.R.S. § 38-431.02(D). See Sections 7.6.5 and 7.7.9. There is no requirement to provide advance written notice directly to the affected officer, appointee, or employee when the public body proposes to discuss a personnel matter in a public session and not in an executive session.

Although the public body may *permit* the public officer, appointee, or employee who is the subject of discussion to attend the executive session, the Open Meeting Law does not specify whether that person has the right to attend. Whether he attends or not, the public body must make the minutes of the executive session available to the public officer, appointee, or employee who was the subject of discussion in the executive session. A.R.S. § 38-431.03(B)(2).

A public body may consider several persons for appointment to a position or consider several employees for possible disciplinary action. In such cases, the public body may consider the matter in executive session provided all those being considered are given the required notice. If some, but not all of those given notice request a public meeting, the public body has two options: the public body may limit the public discussion to those persons filing the request and discuss the remaining persons in an executive session; or, because the Open Meeting Law does not require the public body to discuss personnel matters in executive session, the public body may discuss the entire matter in a public meeting.

Public bodies should take care to ensure they limit the scope of executive sessions for personnel discussions to true personnel matters. The Attorney General opined that the Open Meeting Law prohibits public bodies from conducting in executive sessions lengthy information gathering meetings that explore the operation of public programs under the guise of conducting a personnel evaluation. Only the actual evaluation - discussion or consideration of the performance of the employee - may take place in an executive session. See Ariz. Att'y Gen. Op. 196-012. A public body wishing to discuss or consider an employee's evaluation in executive session, pursuant to A.R.S. § 38-431.03(A)(1), should adopt a bifurcated process permitting the public body to gather information about public programs at a public meeting, while allowing the public body to enter executive session to discuss or consider the actual evaluation. Ariz. Att'y Gen. Op. 196-012.

Similarly, a public body may not discuss a class of persons in executive session under the Personnel Matters provision. For instance, a public body may not use this executive session provision to discuss a potential reduction in force. Each employee who will be discussed in executive session must get the notice as required by A.R.S. § 38-431.03(A)(1).

**7.9.5.2 Confidential Records.** An executive session may be held when the public body considers or discusses "records exempt by law from public inspection." A.R.S. § 38-431.03(A)(2). This specifically includes situations in which the public body receives or discusses "information or testimony that is specifically required to be maintained as confidential by state or federal law." *Id.* This provision allows the use of an executive session whenever the public body intends to discuss or consider matters contained in records that are confidential by law. See Ariz. Att'y Gen. Ops. 190-058, 187-131. However, when confidential matters can be adequately safeguarded, the discussion may take place during a public meeting. *Cf.* Ariz. Att'y Gen. Op. 187-038 (medical records).

The record under consideration need not be expressly made confidential by statute, but rather may fall within the category of confidential records discussed in Chapter 6 of this handbook. For example, to preserve confidentiality, preliminary audit reports of state agencies prepared by the Auditor General are confidential and should be discussed by the public body in executive session. Ariz. Att'y Gen. Op. 180-035. Similarly, complaints against licensees investigated by a public body may be discussed in executive session. Ariz. Att'y Gen. Op. 183-006. In 2000, the Legislature revised the statute to allow public bodies to take testimony in executive sessions in certain situations. Public bodies should ensure that state or federal law requires that the public body maintain confidentiality of the information it receives before convening an executive session under A.R.S. § 38-431.03(A)(2). Written materials, however, do not become confidential merely because they are discussed in executive session.

**7.9.5.3 Legal Advice.** A public body may also go into executive session for the purposes of "discussion or consultation for legal advice with the attorney or attorneys of the public body." A.R.S. § 38-431.03(A)(3). For this exemption to apply, the attorney giving the legal advice must be the attorney for the public body. *Id.* For purposes of this discussion, the "attorney for the public body" means a licensed attorney representing the public body, whether that attorney is a full-time employee of the body, the attorney general or county, city, or town attorney responsible for representing the public body, an attorney hired on contract, or an attorney provided by an insurance carrier to represent the public body.

This provision authorizes consultations between a public body and its attorney. Accordingly, the only persons allowed to attend this executive session are the members of the public body, the public body's attorney, and those employees and agents of both whose presence is necessary to obtain the legal advice. See A.R.S. § 38-431(2). An attorney may attend in person or through other telecommunications technology, such as by telephone or video-conferencing. The mere presence of an attorney of the public body in the meeting room is not sufficient to justify the use of this executive session provision. *City of Prescott v. Town of Chino Valley*, 166 Ariz. 480, 485, 803 P.2d 891, 896 (1990). This provision can only be used for the purpose of obtaining "legal advice," which involves the exchange of communications between lawyer and client. Once the public body obtains the legal advice, the public body must go back into public session unless another executive

session provision applies and has been identified in the notice and motion for executive session. See *Id.* at 486, 803 P.2d at 897. Discussion between the members of the public body about what action should be taken is beyond the realm of legal advice, and such discussions must be held in public session.

**7.9.5.4 Litigation, Contract Negotiations, and Settlement Discussions.** A public body may hold an executive session for the purpose of "[d]iscussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation." A.R.S. § 38-431.03(A)(4). This provision allows consideration and instruction only—it does *not* allow a public body to conduct contract negotiations or settlement discussions in an executive session.

This provision is unique in that it permits a public body to give its attorneys instructions on how they should proceed in contract negotiations, pending or contemplated litigation involving the public body, and settlement discussions. In these limited situations, the public body must be able to discuss and arrive at some consensus on its position before it instructs its legal counsel. Executive session minutes must contain an accurate description of all instructions given. A.R.S. § 38-431.01(C). For example, the public body might authorize its attorney to settle a lawsuit on the most favorable terms possible up to a certain amount. Of course, if the attorney were to obtain an agreed settlement, the public body must formally approve it at a public meeting.

If legal action is necessary by the public body before its representative can take the directed action, the public body must vote on the matter in public session and cannot do so in executive session. See *Johnson v. Tempe Elementary School Dist. No. 3 Governing Bd.*, 199 Ariz. 567, 570, 20 P.3d 1148, 1151 (App. 2000) (concluding that Board was required to vote in public session to authorize attorney to file notice of appeal). In order to preserve the confidentiality afforded by the Open Meeting Law, the best practice is for the public body, upon return to the open session, to vote to authorize its attorney to “proceed as instructed in the executive session.” The public body should provide more information when it is possible to do so without risking the confidentiality of the matter (such as instructing an attorney to file an appeal). For example, the public body could move for its attorney “to file a notice of appeal on the grounds specified in executive session” or “to make an offer for settlement of the claim in Case X within the parameters specified in executive session.” The public body should consult with legal counsel to determine the specificity required in such motions.

Like the provision that allows legal advice to be given in executive session, this provision requires that the attorney of the public body be present at the executive session. The attorney may attend in person or through other telecommunications technology, such as by telephone or video-conferencing. Similarly, the discussion in Section 7.9.5.3 of the definition of “attorney for the public body” also applies to this Section.

**7.9.5.5 Discussions with Designated Representatives Regarding Salary Negotiations.** A public body may hold an executive session for the purpose of "[d]iscussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations with employee organizations regarding the salaries, salary schedules or compensation paid in the form of fringe benefits of employees of the public body." A.R.S. § 38-431.03(A)(5). This provision permits a public body, in executive session, to consult and discuss with its representatives its position on negotiating salaries or compensation paid in the form of fringe benefits and to instruct representatives on how they should deal with the employee organizations. It does not authorize an executive session for purposes of meeting with the employees' representative. If the public body or any standing, special, or advisory committee or subcommittee of the public body conducts the negotiations, those negotiations must be conducted in a public meeting.

This provision also allows the public body to "instruct" its representatives. The discussion in Section 7.9.5.4 of the practice of confirming instructions in public session and the minute-taking requirements applies with equal force to this Section.

**7.9.5.6 International, Interstate, and Tribal Negotiations.** A public body may go into executive session for the purpose of "[d]iscussion, consultation, or consideration for international and interstate negotiations." A.R.S. § 38-431.03(A)(6). This provision does not apply to meetings at which the public body receives recommendations from representatives of federal agencies. Ariz. Att'y Gen. Op. 180-159.

This provision also permits a city or town, or its designated representatives, to enter into executive session with "members of a tribal council, or its designated representatives, of an Indian reservation located within or adjacent to the city or town." A.R.S. § 38-431.03(A)(6). This is the only type of executive session in which negotiations with another party can take place.

**7.9.5.7 Purchase, Sale or Lease of Real Property.** A public body may meet in executive session to discuss and consult with its representatives concerning negotiations for the purchase, sale, or lease of real property. A.R.S. § 38-431.03(A)(7). This provision does not authorize an executive session for the purpose of meeting with representatives of the party with whom the public body is negotiating. For example, a school district violates open meeting laws by choosing a site for a proposed high school in executive session. *Tanque Verde Unified Sch. Dist. No. 13 of Pima County v. Bernini*, 206 Ariz. 200, 208, 76 P.3d 874, 882 (App. 2003). This provision permits the public body to instruct its representatives regarding the purchase, sale or lease of real property. For example, the public body can authorize its representative to negotiate up to a certain amount. Of course, the final contract must be approved by the public body in a public meeting.

This provision also allows the public body to "instruct" its representatives. The discussion in Section 7.9.5.4 of the practice of confirming instructions in public session and the minute-taking requirements also applies to this Section.

## **7.10 Public Participation and Access to Meetings.**

**7.10.1 Public Participation.** While the public must be allowed to attend and listen to deliberations and proceedings taking place in all public meetings, A.R.S. § 38-431.01(A), the Open Meeting Law does not establish a right for the public to participate in the discussion or in the ultimate decision of the public body. Ariz. Att'y Gen. Op. 78-1. Other statutes may, however, require public participation or public hearings. For example, before promulgating rules, state agencies must permit public participation in the rule making process, including the opportunity to present oral or written statements on the proposed rule. See Chapter 11. See *also* Section 7.7.7 for a discussion of the authorization (but not requirement) for public bodies to use an open call to the public.

The Open Meeting Law does not prevent a public body from requiring persons who intend to speak at the meeting to sign a register so as to permit the public body to comply with the minute-taking requirements. See Section 7.8.2(6).

**7.10.2 Public Access.** The public body must provide public access to public meetings. See A.R.S. § 38-431.01(A). This requirement is not met if the public body uses any procedure or device that obstructs or inhibits public attendance at public meetings, such as holding the meeting in a geographically isolated location, in a room too small to accommodate the reasonably anticipated number of observers, in a place to which the public does not have access, such as private clubs, or at an unreasonable time. Relatedly, the public body must ensure that the public can observe and listen to the full contours of public meetings. For example, a public meeting in which the public cannot hear discussions by members of the public body because of the low volume of the microphone or speaker systems would likely violate the Open Meeting Law.

"All or any part of a public meeting . . . may be recorded by any person in attendance by means of a tape recorder or camera or other means of sonic reproduction." A.R.S. § 38-431.01(F). A public body may prohibit or restrict such recordings only if they actively interfere with the conduct of the meeting. *Id.*

In addition to complying with the Open Meeting Law, the notice and accommodations should conform with the provisions of the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12101 - 12213. See Section 15.27; see *also* section 7.6.3.2 (notice requirements relating to reasonable accommodations).

**7.10.3 Remote Conferencing.** If members of a public body are unable to be present in person at a public meeting, they may participate by telephone or video or internet conference if the practice is not prohibited by statutes applicable to meetings of the public body. Ariz. Att'y Gen. Ops. I08-008, I91-033, I83-135. In addition, nothing prohibits the public body from allowing people to attend meetings or to address the public body by telephone or through other telecommunications technology. See A.R.S. § 38-431(4). In order to comply with the requirements of the Open Meeting Law, the members of the public

body and the public must be able to hear the member of the public body that is attending by telephone or other technological device. The public body must also ensure that the members attending by telephone or other technological device can hear any discussion from the public body and other persons making statements to the body.

A public body should consider the following guidelines to minimize any difficulties arising from remote conferencing.

1. Notify the public body and the public by including a statement on the notice and the agenda that one or more members of the public body may participate by telephonic, video or internet communications. In the appropriate notice, insert the following after the first sentence: "Members of the [name of public body] may attend either in person or by telephone, video or internet conferencing."
2. Ensure that the public meeting place where the public body normally meets has facilities that permit the public to observe and hear all telephone, video or online communications.
3. Develop procedures to clearly identify members that are participating by telephonic, video or internet communications.
4. Identify in the minutes of the meeting the members who participated by telephonic or video communications.

**7.11 Quorum.** Arizona statutes generally define a quorum as a majority of the members of a board or commission. A.R.S. § 1-216(B). In applying the Open Meeting Law, this definition applies in the absence of a more specific definition.

**7.12 Ratification.** A public body may ratify action previously taken in violation of the Open Meeting Law. See A.R.S. § 38-431.05(B). Ratification is appropriate when the public body needs to retroactively validate a prior act in order to preserve the earlier effective date of the action. For example, a public body may be required by law to approve its budget by a certain date. If the public body discovered after the statutory deadline that its earlier approval violated the Open Meeting Law, it could face serious legal problems. Even if the body met quickly to properly approve the budget, the approval would not have been made prior to the statutory deadline. Accordingly, the 1982 amendments permit the public body to meet and approve retroactively the action previously taken—that is, to ratify its prior action.

#### **7.12.1 Generally.**

Ratification must take place “within thirty days after discovery of the violation or after such discovery should have been made by the exercise of reasonable diligence.” A.R.S. § 38-431.05(B)(1). This can be triggered in different ways. A judicial determination

that the public body took legal action in violation of public meeting laws triggers the thirty-day period. *Tanque Verde Unified Sch. Dist. No. 13 of Pima County v. Bernini*, 206 Ariz. 200, 208-210, 76 P.3d 874, 882-884 (App. 2003). However, it is not triggered by letters from attorneys notifying the board of their intent to challenge the legal action or by filing a lawsuit. *Id.* at 209, 76 P.3d at 883.

Ratification merely validates the prior action; it does not eliminate liability of the public body or others for sanctions under the Open Meeting Law, such as civil penalties and attorney's fees. Moreover, ratification under the Open Meeting Law may well fail to resolve other notice failure. For example, ratification under the Open Meeting Law may not resolve the specific notice requirements of a zoning or taxation statute.

A public body can take the same legal action at a subsequent properly noticed public meeting without following the ratification procedure, but the action will not have the earlier effective date. See *Cooper v. Arizona Western Coll. Dist. Governing Bd.*, 125 Ariz. 463, 468-469, 610 P.2d 465, 470-71 (App. 1980) (“We find no provision in the Arizona statutes relating to public meetings which precludes a public body from adopting at a subsequent public meeting action which was legally ineffective from a previous meeting of the public body.”)

**7.12.2 Procedure for Ratification.** The Open Meeting Law provides the following detailed procedure for ratification under A.R.S. § 38-431.05(B):

1. The decision to ratify must take place at a public meeting held in accordance with the Open Meeting Law.
2. Ratification must take place within thirty days after discovery of the violation or after such discovery should have been made by the exercise of reasonable diligence.
3. The public notice of the meeting at which ratification is to take place, in addition to complying with the other requirements of the Open Meeting Law, see Sections 7.6 and 7.7, must include (a) a description of the action to be ratified, (b) a clear statement that the public body proposes to ratify a prior action, and (c) information on how the public may obtain a written description of the action to be ratified. See Form 7.12.
4. In addition to the notice and agenda of the meeting, the public body must make available to the public a detailed written description of the action to be ratified and a description of all prior deliberations, consultations, and decisions by members of the public body related to the action to be ratified.
5. The description required under paragraph 4 must be included as part of the minutes of the meeting at which the decision to ratify was made.

6. The public notice, agenda, and written description discussed in paragraphs 3 and 4 must be made available to the public at least seventy-two hours prior to the public meeting.

### **7.13 Sanctions for Violations of the Open Meeting Law.**

**7.13.1 Nullification.** All legal action transacted by any public body during a meeting held in violation of any provision of the Open Meeting Law is null and void unless subsequently ratified. A.R.S. § 38-431.05(A). The procedures for ratification are described in Section 7.12.2. However, the Open Meeting Law does not render null and void all legal action taken at a meeting at which a violation occurs with respect to a single improperly noticed agenda item. Ariz. Att'y Gen. Op. I08-001.

The Arizona Supreme Court, however, has held that legal actions taken in violation of the Open Meeting Law are voidable at the discretion of the court. *Karol v. Bd. Of Educ. Trustees*, 122 Ariz. 95, 97, 593 P.2d 649, 651 (1979). In *Karol*, the court held that "a technical violation having no demonstrated prejudicial effect on the complaining party does not nullify all the business in a public meeting when to conclude otherwise would be inequitable, so long as the meeting complies with the intent of the legislature." *Id.* at 98, 593 P.2d at 652. This decision imposes a substantial compliance test and requires a weighing of the equities before a court will declare an action void. The decision, however, preceded the 1982 amendment to the Open Meeting Law which specifically authorized a procedure for ratification. It remains to be seen whether this change will cause the court to follow the literal language of the Open Meeting Law. Nevertheless, serious consequences flow from having an action of a public body declared void, and the public body should take every precaution to avoid even technical violations of the Open Meeting Law.

In some cases, the public body may have discussed a matter at an unlawful meeting, but thereafter met in a lawful open meeting at which it took a formal vote as its "final action." The Arizona Court of Appeals has held that the subsequent final action taken at a lawful meeting is not void. *Cooper v. Arizona Western Coll. Dist. Governing Bd.*, 125 Ariz. 463, 468-469, 610 P.2d 465, 470-71 (App. 1980); *Valencia v. Cota*, 126 Ariz. 555, 617 P.2d 63 (App. 1980). The public body taking the final action at the subsequent lawful meeting should make available at that time the substance of all discussions that took place at the earlier unlawful meeting. If the public body wishes to preserve the effective date of the earlier action rather than simply redecide the matter, it must go through the ratification process. See Section 7.12.

**7.13.2 Investigation and Enforcement.** The 2000 Legislature enacted substantial revisions to the Open Meeting Law, including extensive changes to the investigation and enforcement provisions. The Attorney General and County Attorneys are authorized to investigate alleged Open Meeting Law violations and enforce the Open Meeting Law. A.R.S. § 38-431.06.

The Open Meeting Law specifically provides that the Attorney General and County Attorneys shall have access to executive session minutes when they are investigating alleged violations of the Open Meeting Law. A.R.S. § 38-431.03(B)(4). The Open Meeting Law also provides that disclosure of executive session information (such as disclosure to the Attorney General) does not constitute a waiver of the attorney-client privilege and directs courts reviewing executive session information to protect privileged information. *Id.* § (F).

The investigative authority of the Attorney General and County Attorneys was strengthened by the 2000 Legislature. The Attorney General and County Attorneys may issue written investigative demands to any person, administer oaths or affirmations to any person for the purpose of taking testimony, conduct examinations under oath, examine accounts, books, computers, documents, minutes, papers and recordings, and require people to file written statements, under oath, of all the facts and circumstances requested by the Attorney General or County Attorney. A.R.S. § 38-431.06(B). If a person fails to comply with a civil investigative demand, the Attorney General or County Attorney may seek enforcement of the demand in Superior Court.

“Any person affected by an alleged violation of [the Open Meeting Law], the Attorney General or the County Attorney for the county in which the alleged violation ... occurred,” may file suit in superior court against a public body as a whole to require compliance with or prevent violations of the Open Meeting Law or to determine whether the law is applicable to certain matters or legal actions of the public body. A.R.S. § 38-431.07.

Additionally, when the provisions of the Open Meeting Law have been violated, a court of competent jurisdiction may issue a writ of mandamus requiring a meeting to be open to the public. A.R.S. § 38-431.04. A writ of mandamus is an order of the court compelling a public officer to comply with certain mandatory responsibilities imposed by law.

In 2007, in an effort to increase government awareness and provide the citizens of Arizona an effective and efficient means to get answers and resolve public access disputes, legislation expanded the Arizona Ombudsman-Citizens' Aide Office to provide free services to citizens and public officials regarding public access issues. The duties of the Ombudsman include: preparing materials on public access laws, training public officials, coaching, assisting and educating citizens, investigating complaints, requesting testimony or evidence, conducting hearings, making recommendations, and reporting misconduct. A.R.S. § 41-1376.01.

**7.13.3 Civil Penalties.** In addition to suits brought in order to require compliance with, prevent violations of, or determine the applicability of the Open Meeting Law, “[t]he attorney general may also commence a suit . . . against an individual member of a public body for a knowing violation of [the Open Meeting Law].” A.R.S. § 38-431.07(A). In such a suit, the court may impose a civil penalty not exceeding five hundred dollars for a second offense, and not exceeding two thousand five hundred dollars for third or subsequent offenses against each person who knowingly violates the Open Meeting Law. *Id.* This

penalty can also be assessed against a person who knowingly aids, agrees to aid or attempts to aid in violating the Open Meeting Law. *Id.* This penalty is assessed against the individual and not the public body, and the public body may not pay the penalty on behalf of, or otherwise reimburse, the person assessed. *Id.* If a “person who might otherwise be liable under [the Open Meeting Law] objected to the action of the public body and the objection is noted on a public record, the court may choose not to impose a civil penalty on that person.” *Id.*

**7.13.4 Attorney's Fees.** The court may also order payment of reasonable attorney's fees to a successful plaintiff in an enforcement action brought under the Open Meeting Law. A.R.S. § 38-431.07(A). Normally those fees will be paid by the state or political subdivision of which the public body is a part or to which it reports. *Id.* However, if the court determines that a public officer knowingly violated the Open Meeting Law "with intent to deprive the public of information," the court must assess all of the costs and attorney's fees awarded to the plaintiff against that public officer or the person who knowingly aided, agreed to aid or attempted to aid the public officer in violating the Open Meeting Law. *Id.* As in the case of an award of civil penalties, the public body may not pay such an award of attorney's fees assessed against the public officer individually. *See id.*

**7.13.5 Expenditure for Legal Services by Public Body Relating to the Open Meeting Law.** A public body may not retain counsel or expend monies for legal services to defend an action brought under the Open Meeting Law unless the public body has legal authority to make such an expenditure pursuant to other provisions of law and it approves the expenditure at a properly noticed open meeting prior to incurring the obligation. A.R.S. § 38-431.07(B).

**7.13.6 Removal From Office.** If the court determines that a public officer knowingly violated the Open Meeting Law "with intent to deprive the public of information," the court may remove the public officer from office. A.R.S. § 38-431.07(A).

**Form 7.1**

**Disclosure Statement**

**Section 7.6.3.1**

**STATEMENT OF LOCATIONS WHERE ALL NOTICES OF THE MEETINGS  
OF THE [NAME OF PUBLIC BODY] WILL BE POSTED**

Pursuant to A.R.S. § 38-431.02, the [name of public body] hereby states that all notices of the meetings of the [name of public body] and any of its committees and subcommittees will be posted [identify the location where notices will be posted and include the hours during which such locations are open to the public, for example, "in the lobby of the State Capitol located at 1700 West Washington, Phoenix, Arizona, and at the press room of the State Senate Building, 1700 West Washington, Phoenix, Arizona. Both locations are open to the public Monday through Friday from 8:00 a.m. to 5:00 p.m. except legal holidays."] Such notices will indicate the date, time, and place of the meeting and will include an agenda or information concerning the manner in which the public may obtain an agenda for the meeting.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

[name of public body]

By [authorized signature]

**Form 7.2**

**Notice of Public Meeting of a Public Body**

**Sections 7.6.3, 7.7.4, 7.10.1**

**NOTICE OF PUBLIC MEETING OF THE  
[NAME OF PUBLIC BODY]**

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the [name of public body] and to the general public that the [name of public body] will hold a meeting open to the public on [date, time, and exact location].

The agenda for the meeting is as follows:

[List the specific matters to be discussed, considered, or decided. See Form 7.7 (Sample Notice and Agenda)]

[OR]

A copy of the agenda for the meeting will be available at [location where the agenda will be available] at least twenty-four hours in advance of the meeting.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

[name of public body]

By [authorized signature]

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting [name, telephone number, TDD telephone number]. Requests should be made as early as possible to arrange the accommodation.

**Form 7.3**

**Notice of Public Meeting of a Subcommittee or Advisory Committee of a Public Body**

**Sections 7.6.3, 7.10.1**

**NOTICE OF MEETING OF THE [NAME OF SUBCOMMITTEE OR ADVISORY COMMITTEE] OF THE [NAME OF PUBLIC BODY]**

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the [name of committee] of the [name of public body] and to the general public that the [name of committee] of the [name of public body] will hold a meeting open to the public on the [date, time, and exact location].

The agenda for the meeting is as follows:

[List the specific matters to be discussed, considered or decided. See Form 7.7 (Sample Notice and Agenda)]

[OR]

A copy of the agenda for the meeting will be available at [location where the agenda will be available] at least twenty-four hours in advance of the meeting.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

[name of public body]

By [authorized signature]

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting [name, telephone number, TDD telephone number]. Requests should be made as early as possible to arrange the accommodation.

**Form 7.4**

**Notice of Regular Meetings of a Public Body**

**Sections 7.6.3, 7.6.6, 7.7.4, and 7.10.1**

**NOTICE OF REGULAR MEETINGS OF THE  
[NAME OF PUBLIC BODY]**

Pursuant to A.R.S. § 38-431.02(F), notice is hereby given to the members of the [name of public body] and to the general public that the [name of public body] will hold regular meetings on the [specific day of month] of each month during the year [year]. The meetings will begin at [time] and will be held at [exact location].

A copy of the agenda for the meeting will be available at [location where the agenda will be available] at least twenty-four hours in advance of the meeting.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

[name of public body]

By [authorized signature]

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting [name, telephone number, TDD telephone number]. Requests should be made as early as possible to arrange the accommodation.

**Form 7.5**

**Notice of Meeting and Possible Executive Session of a Public Body**

**Sections 7.6.8 and 7.10.1**

**NOTICE OF MEETING AND POSSIBLE EXECUTIVE SESSION OF THE  
[NAME OF PUBLIC BODY]**

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the [name of public body] and to the general public that the [name of public body] will hold a meeting open to the public on [date, time, and exact location] for the purpose of deciding whether to go into executive session. If authorized by a majority vote of the [name of public body], the executive session will be held immediately after the vote and will not be open to the public.

The agenda for the meeting is as follows:

[Include a general description of the matters to be discussed or considered, but exclude information that would defeat the purpose of the executive session. See Form 7.7 (Sample Notice and Agenda)]

[OR]

A copy of the agenda for the meeting will be available at [location where the agenda will be available] at least twenty-four hours in advance of the meeting.

This executive session is authorized under A.R.S. § 38-431.03, Subsection (A), paragraph [list applicable provision].

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

[name of public body]

By [authorized signature]

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting [name, telephone number, TDD telephone number]. Requests should be made as early as possible to arrange the accommodation.

**Form 7.6**

**Notice of Combined Public Meeting and Executive Session**

**Sections 7.6.8, 7.7.4, and 7.10.1**

**NOTICE OF COMBINED PUBLIC MEETING AND EXECUTIVE SESSION OF  
[NAME OF PUBLIC BODY]**

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the [name of public body] and to the general public that the [name of public body] will hold a meeting open to the public on [date, time, and exact location]. As indicated in the agenda, pursuant to A.R.S. § 38-431.03(A) [specific paragraph that justifies the executive session], the [name of public body] may vote to go into executive session, which will not be open to the public, to discuss certain matters.

The agenda for the meeting is as follows:

[List the specific matter to be discussed, considered, or decided. See Form 7.7 (Sample Notice and Agenda). Identify those matters that may be discussed or considered in executive session and identify the paragraph of A.R.S. § 38 -431.03(A) authorizing the executive session, but exclude information that would defeat the purpose of the executive session.]

[OR]

A copy of the agenda for the meeting will be available at [location where the agenda will be available] at least twenty-four hours in advance of the meeting.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

[name of public body]

By [authorized signature]

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting [name, telephone number, TDD telephone number]. Requests should be made as early as possible to arrange the accommodation.

## Form 7.7

### Sample Notice and Agenda of Public Meeting and Executive Session

#### Sections 7.6.4, 7.6.8, 7.7.2, 7.7.4, and 7.10.1

### NOTICE AND AGENDA OF MEETING OF THE ARIZONA COMMISSION ON THE ENVIRONMENT

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Arizona Commission on the Environment and to the general public that the Arizona Commission on the Environment will hold a meeting open to the public on January 21, 2000, beginning at 8:30 a.m. in Room 201, Health Building, 1740 West Adams, Phoenix, Arizona. As indicated in the following agenda, the Arizona Commission on the Environment may vote to go into executive session, which will not be open to the public, to discuss certain matters.

The agenda for the meeting is as follows:

- I. Call to Order. (Chairman Smith)
- II. Approval of Minutes of October 19, 1999 Meeting.
- III. Committee Reports. (Oral reports of the following committees and discussion thereon.)
  1. Computer Committee. Report by the chair of the Commission's Advisory Committee on proposals for acquiring a new computer system for the Commission.
- IV. Personnel.
  1. Consideration of applicants for Director of the Commission. The Commission may vote to discuss this matter in executive session pursuant to A.R.S. § 38-431.03(A)(1). The names of the applicants may be obtained by contacting the Commission's Executive Secretary.
  2. Selection of Director of the Commission. The Commission may defer a decision on this matter to a later date.
- V. Litigation.
  1. *State v. Acme Polluters*. Discussion and decision concerning possible settlement. The Commission may vote to discuss this matter with the Commission's attorneys in executive session pursuant to

A.R.S. § 38-431.03(A)(3) and (4). The Commission may decide the matter in the public meeting or defer decision to a later date.

2. Instituting Litigation. Discussion with and instruction to the Commission's attorneys concerning the filing of an enforcement action against The Brown Corporation. The Commission may discuss this matter in executive session pursuant to A.R.S. § 38-431.03(A)(2), (3), and (4). The Commission may decide the matter in the public meeting or defer decision to a later date.

VI. Consent Agenda.

Approval of routine warrants, purchase orders, travel claims, employee leave and transfer requests, and employee resignations. (Documentation concerning the matters on the consent agenda may be reviewed at the Commission's office.) Any matter on the Consent Agenda will be removed from the Consent Agenda and discussed as a regular agenda item upon the request of any Commission member.

1. Approval of purchase order numbers 1204, 1205, and 1206 for purchase of computer equipment.
2. Approval of travel claims for employees John Q. Smith and Mary M. McGee.
3. Approval of resignation of Daniel Warren and resolution to thank Daniel Warren for ten years of service.

VII. Call to the Public.

This is the time for the public to comment. Members of the Board may not discuss items that are not on the agenda. Therefore, action taken as a result of public comment will be limited to directing staff to study the matter or scheduling the matter for further consideration and decision at a later date.

VIII. Summary of Current Events.

The chief administrator, presiding officer or a member of the board may present a brief summary of current events pursuant to A.R.S. § 38-431.02(K). The Board will not discuss or take action on any current event summary.

IX. Future Meeting Dates and Items for Future Agendas.

The Board may discuss future dates for meetings and direct staff to place matters on future agendas.

A copy of the agenda background material provided to Commission members (with the exception of material relating to possible executive sessions) is available for

public inspection at the Commission's office, Room 402, Health Building, 1740 West Adams, Phoenix, Arizona.

Dated this 7th day of January, 2000.

ARIZONA COMMISSION ON THE ENVIRONMENT

Chris Jones  
Executive Secretary

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting [name, telephone number, TDD telephone number]. Requests should be made as early as possible to arrange the accommodation.

**Form 7.8**

**Certification of Posting of Notice**

**Section 7.6.9**

**CERTIFICATION OF POSTING OF NOTICE**

The undersigned hereby certifies that a copy of the attached notice was duly posted at [place] on [date and time] in accordance with the statement filed by the [name of public body].

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

[name and title of person signing the certificate]

**Form 7.9**

**Special Notice of Emergency Meeting**

**Section 7.7.9**

**SPECIAL NOTICE OF AN EMERGENCY MEETING OF  
[NAME OF PUBLIC BODY] HELD [DATE]**

Pursuant to A.R.S. § 38-431.02(D), notice is hereby given that an emergency session of the [name of public body] was held on [date, time, and exact location].

At the emergency session the [name of public body] [describe the specific matters discussed, considered, or decided, or in the case of matters considered in an emergency executive session, a general description of the matters considered, provided that no information is included that would defeat the purpose of the executive session].

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

[name of public body]

By [authorized signature]

**Form 7.10**

**Minutes of Public Meeting**

**Sections 7.8.1 and 7.8.2**

**MINUTES OF PUBLIC MEETING OF THE  
[NAME OF PUBLIC BODY] OF MEETING HELD [DATE]**

A public meeting of the [name of public body] was convened on [date, time, and exact location]. Present at the meeting were the following members of the [name of public body]: [names of members present]. Absent were: [names of members absent]. The following matters were discussed, considered, and decided at the meeting:

1. [Generally describe all matters discussed or considered by the public body.]
2. [Describe accurately all legal actions proposed, discussed, or taken, the names of persons who proposed each motion, and a record of how each member voted].
3. [Identify each person making statements or presenting material to the public body, making specific reference to the legal action about which they made statements or presented material.]
4. [Other required information. See Section 7.8.2(7), (8), (9).]

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

[name of public body]

By [authorized signature]

**Form 7.11**

**Minutes of Executive Session**

**Sections 7.8.1, 7.8.3**

**MINUTES OF EXECUTIVE SESSION OF THE  
[NAME OF PUBLIC BODY] HELD [DATE]**

An executive session of the [name of public body] was convened on [date, time, and exact location]. The [name of public body] voted to go into executive session at a public meeting on [date, time, and exact location]. Present at the executive session were the following members of the [name of public body]: [names of members present]. Absent were: [names of members absent]. Also attending the executive session were: [names of those present including the reasons for their presence, for example, attorney for the public body, etc.]

The following matters were discussed and considered at the meeting:

1. [Generally describe the matters discussed or considered by the public body.]
2. [Describe all instructions given to attorneys or designated representatives pursuant to A.R.S. § 38-431.03(A)(4), (5) and (7).]
3. [If the executive session is held as an emergency session, include the statement of reasons for the emergency consideration. See Section 7.8.2(7).]
4. [Include such other information as the public body deems appropriate, including information necessary to establish that executive session was proper and appropriate. See Section 7.8.3(5).]

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

[name of public body]

By [authorized signature]

**Form 7.12**

**Notice of Action to be Ratified**

**Sections 7.6.4, 7.10.1, and 7.12.2**

**NOTICE OF PUBLIC MEETING OF THE [NAME OF PUBLIC BODY]  
FOR THE PURPOSE OF RATIFYING PAST ACTION TAKEN  
IN VIOLATION OF OPEN MEETING LAW**

Pursuant to A.R.S. § 38-431.05, notice is hereby given to the members of the [name of public body] and to the general public that the [name of public body] will hold a meeting open to the public on [date, time, and exact location].

The purpose of the meeting is to ratify an action of the [name of public body] that may have been taken in violation of the Open Meeting Law. This action involved:

[Describe the action.]

The public may obtain a detailed written description of the action to be ratified, and all deliberations, consultations, and decisions by members of the public body that preceded and relate to this action to be ratified at [identify the location and include hours] at least 72 hours in advance of the meeting.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

[name of public body]

By [authorized signature]

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting [name, telephone number, TDD telephone number]. Requests should be made as early as possible to arrange the accommodation.

**Form 7.13**

**Employee Notice of Executive Session**

**Section 7.9.4**

[DATE]

[Name and Address of Officer  
or Employee who is the subject  
of discussion at the executive  
session]

Dear [Name of employee]:

This is to advise you that the [name of public body] will meet in executive session at its next meeting on [date, time, and exact location] to discuss [describe nature of matters to be discussed or considered]. You may request that the discussion take place during the [name of public body's] public meeting rather than in executive session, by contacting the undersigned not later than [date and time by which notification must be given\*].

Any person with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting [name, telephone number, TDD telephone number]. Requests should be made as early as possible to arrange the accommodation.

Very truly yours,

[authorized signature]

\* Since the public body must post its notice of either a public meeting or an executive session at least twenty-four hours before the meeting, the deadline for the employee to exercise his or her right to demand a public meeting must be more than twenty-four hours before the meeting.

# GOVERNANCE RELATIONS SYSTEM EXAMPLE ©bridgegroupllc

The role of a Governing Board is often difficult to define. It is this lack of clarity within the roles of the Governing Board that results in a disconnect between the governing board and the chief executive. Ideally, the role of an elected public board is to develop policy. The implementation of that policy and responsibility for the day to day operations of the organization reside with the chief executive or city manager. What is missing?

The answer is, established expectations that the Board has for the executive or manager. The Governance Relations System (GRS) is designed to create a bridge between the Elected Board's expectations of their Chief Executive (City Manager) and the execution of the day to day operations of the organization. The GRS also sets expectations for the Board to support the success of the Chief Executive in executing their expectations.

**“Governing boards have been known in one form or another for centuries. Yet throughout those many years there has been a baffling failure to develop a coherent or universally applicable understanding of just what a board is for.”**

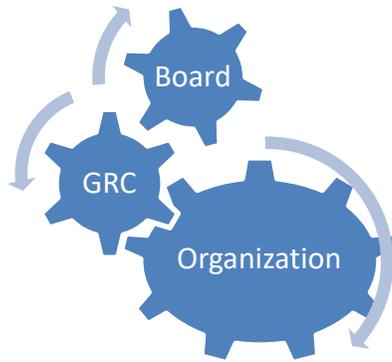
**Carver's Policy Governance Model in Nonprofit Organizations**

By John Carver and Miriam Carver

The Governance Relations System includes FOUR areas:

1. The Expectations of the Organization
2. The Performance Expectation of the Chief Executive
3. The Expectations of the Elected Board
4. The Expectations of Customer Service/Civic Engagement

These areas provide an general guidelines for how the organization will be managed, the expected conduct of the Board, the manner in which services will be provided and opportunities for engagement with citizens. The key to making the GRS work is the partnership/collaboration between the Elected Board and Chief Executive to set clear expectations on how the organization will operate. The GRS can be viewed as a series of interconnected gears that drive the organization and its management and leadership priorities.



The Governance Relations System (GRS) is designed to improve the relationship and effectiveness between the Governing Board and Chief Executive. The expectations set benchmarks for annually evaluating the efforts of the Board and the Chief Executive. The expectations can be amended and adjusted over time to keep them relevant to the municipality. The bar is set high with these expectations, but the journey in the search for governance excellence is never easy. Each step forward or times when these expectations are not met, are all part of trying to be the best governed municipality for the organization's citizens and employees.

## The Expectations of the Organization

Expectation	Description
<b>Maintain an Integrated Strategic Planning System that is linked to the annual budget, strategic projects, employee evaluations and performance measures.</b>	The integrated strategic management system will allow for strategic projects that require funding to be considered during the annual budget process. Current and new strategic projects and performance measures will also be reviewed and approved at this time.
<b>Strive to be an “open book” organization for its employees.</b>	“Open Book” means that all critical, not confidential, operational and financial information concerning the City will be shared and available to employees.
<b>Executive Management Team is committed to the developing and empowering employees.</b>	Employee development and involvement is a high priority for the Executive Leadership Team.
<b>Continuously improve technology for internal and external services.</b>	Continuous technology improvements are essential for the City to meet and exceed the expectations of its customers.
<b>Strive to be a regional model for Board Governance.</b>	Commitment for the City Council and City Manager to work collaboratively on continuously improving their Governance Relations.
<b>Continuously improve internal processes and procedures.</b>	Continuous internal process improvement is essential for efficiency and effectiveness of the City.
<b>Be good stewards of the public’s money and trust.</b>	Ensure processes, procedures and practices are in place to meet this commitment
<b>Focus on developing a learning organization.</b>	Commitment to provide training for employees to ensure that the City continues to have talented and well-trained employees providing leadership and operational response readiness.
<b>Recognize internal stakeholders are customers too</b>	Internal stakeholders should be treated equitably and with respect, as these stakeholder’s service timelines often are dependent upon the work of internal service providers.
<b>Innovation</b>	Employees are empowered to consider unique options along with industry inspired alternatives to solving problems and enhancing service delivery

<b>Transparency</b>	Citizens will have access to key financial and operational information.
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### **The Performance Expectations of the City Manager**

<b>Expectation</b>	<b>Description</b>
<b>Implementing strategic plan projects.</b>	Annual evaluation will include progress on these projects.
<b>Assist the City Council with their policy-making role.</b>	Ensure that information is detailed, reliable and explained in a thorough manner. Include alternatives and recommendations.
<b>Any written information provided to one City Council Member will be provided to all members.</b>	Information shared with one City Council Member must be sent to all members.
<b>Plan ahead, anticipate needs and recognize potential problems. Ensuring attention to detail to avoid error or things “slipping through the cracks”.</b>	Seek input to ensure future plans are achievable and proactively communicate possible shortcomings to collaborate with the Board when necessary.
<b>Implement City Council’s policy regarding expenditures through the use of standard financial management procedures.</b>	Ensures that key information is shared with the Council and that the Council’s intent is followed.
<b>Budget recommendations will provide rationale and alternatives for Council consideration. Projects will be integrated into the budget using the strategic plan.</b>	Ensures that the City Council understands the basis for budget requests and how decisions were made in the final recommendations.
<b>Respect the decisions of the City Council.</b>	Implement Council’s policies by accurately interpreting direction given by the Council, carrying out their directives as a whole and supporting the actions of the Council after a decision has been made.
<b>Practice “collaborative leadership”.</b>	Strive to ensure that your leadership is inclusive and not exclusive. Involve citizens, employees and other stakeholders and partners where appropriate.
<b>Ensure positive and supportive physical and emotional working conditions</b>	Create and foster an environment that values employees and their contributions. Support an environment that assists employees in being successful in the positions that they hold. Ensure that personnel policies and practices are administered in an equitable manner.
<b>Foster teamwork and high performing organizational characteristics.</b>	Guide people as a team toward common objectives; select qualified and highly competent members of the Leadership

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	Team to implement through the organization.
<b>Recognize citizens are our customers</b>	The Council expects that the public will be treated equitably, with dignity and respect. Assist the Council by resolving problems at administrative levels and not through City Council action. Value community perceptions and understand that customer satisfaction is important.
<b>Agenda material</b>	Staff will provide concise, accurate and meaningful agenda material for the Council's review to include the timely delivery of written/electronic materials.
<b>Value intergovernmental relations</b>	Effectively represent the City's interests when dealing with other agencies. Participate and cooperate in intergovernmental activities to have an impact on the region.
<b>Communicate effectively</b>	Provide information to the public in a timely fashion on matters, which will cause public reaction. Be candid and forthright in discussing City business matters with the Council through various methods that include one on one meetings with Council members. Be assessable to Council members.
<b>Proactive Management Style</b>	Show initiative and creativity in dealing with issues, problems and unusual situations while remaining open to new ideas and suggestions for change. Be adaptive to the changing expectations of local government and the impacts of state and national conditions.
<b>Effective Leadership</b>	Be enthusiastic. Command respect and performance from the Leadership Team while providing the tools necessary for effective service delivery. Support a positive work culture at all times.
<b>Negotiate Effectively</b>	In conjunction with the Legal Staff (when appropriate), always consider City Residents when determining negotiating positions or reaching agreement.
<b>No Operational Surprises</b>	Staff will keep the City Council informed on all critical operational issues.

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## The Expectations of the Governing Board

<b>Expectation</b>	<b>Description</b>
<b>Value members' opinions.</b>	You can disagree with each other, but provide the space for each member of the City Council to express their opinion.
<b>Do your homework.</b>	Before the meeting, read information sent by staff to be informed and prepared for discussion. If a meeting is missed, become informed of the decisions made or the information shared.
<b>No surprises at meeting for staff.</b>	If possible, contact staff prior to the meeting when you have a critical question that requires research.
<b>Disagree with the vote, but do not undermine the will of the Council.</b>	You can disagree with a vote and express your viewpoint on why you did not support an item, but understand that the Council has voted for the item and you are responsible, as a Council Member, for its successful implementation.
<b>Practice civility.</b>	As the elected representatives we will strive to be a model for our community and the region on how an elected body should work together for the public good.
<b>Support the strategic plan.</b>	City Council Members will support and require a Strategic Plan for the City.
<b>No public criticism of staff at meetings.</b>	No Council Member will criticize City staff at a public meeting. They can discuss their concerns with the City Manager privately.
<b>No operational interference.</b>	City Council Members will not direct the work of staff. If they have issues or questions related to operations, they will be directed to the City Manager or Designee.
<b>Focus on outcomes not positions.</b>	Before taking a position review the outcomes, potential benefits/results and relationship to the Strategic Plan of a policy or issue first.

## The Expectations of Customer Service/Civic Engagement

<b>Expectation</b>	<b>Description</b>
<b>Timely responses</b>	Staff will strive to provide timely responses to citizens that are easily understood.
<b>Civic engagement</b>	Opportunities to increase citizen engagement with the City on a social and formal basis will be a priority.
<b>Educate citizens on services</b>	Staff will continuously develop strategies and systems to educate citizens on the services and processes of local government.
<b>Accurate information</b>	Staff will ensure information provided to citizens is accurate and written for clarity

**Job Title:** Executive Assistant

**Department:** City Manager

**Immediate Supervisor:** Various

**Origination Date:** 07/01/2001

**Revision Date:** 07/01/2019

**Job Grade:** 807

**FLSA Status:** Non-Exempt

## **JOB DESCRIPTION SUMMARY**

The Executive Assistant provides a high level of administrative support to the City Manager's Office. This position performs duties as assigned including responding to requests, conducting research, and preparing reports. This position requires a high level of confidentiality of verbal and written information; knowledge of detailed department programs; and related work that goes beyond established procedures. The position communicates information to appropriate parties, using tact and diplomacy.

## **ESSENTIAL FUNCTIONS**

*This information is intended to be descriptive of the key responsibilities of the position. The following functions do not identify all duties performed by the incumbent. Other duties and responsibilities will be performed as assigned.*

- Makes, answers, and routes phone calls. Responds, directs, and prepares correspondence and e-mails. Sorts, reviews, and redirects correspondence to the appropriate staff. Provides support as necessary to other divisions within the department.
- Plans, coordinates, and schedules appointments and coordinates calendars. Organizes meetings, travel arrangements, appointments, conferences, and special events, including amenities and scheduling.
- Maintains credit card reconciliations and discretionary funds accounts. Processes invoices, purchase orders, and submits check requests. Monitors and tracks expenses within budget.
- Orders supplies and stocks office. Provides technical support with various office equipment and serves as liaison to ITS.
- Conducts research, compiles information, prepares reports and creates COACs, presentations, and Yellow Papers. Drafts proclamations as requested.
- Creates and maintains filing system. Serves on the City's record retention team, researches applicable guidelines, reviews the files, sets up the destruction records, and coordinates the destruction of the applicable records.
- Prepares staff for meetings by preparing and copying all pertinent materials needed for the meeting.
- Prepares agendas, takes minutes of meetings, evaluates meetings, and tracks agenda items for periodic meetings. Provides notary public services as needed.
- Participates on City teams as assigned and maintains a list of follow-up issues,
- prepares agendas, takes meeting minutes, tracks future agenda items, reports status of activities, and prepares reports.
- Attends City staff meetings, business meetings, and meetings of governmental entities. Evaluates information that is relevant and reports it to appropriate parties. Handles special projects as assigned.

## JOB REQUIREMENTS

- **Formal Education/Knowledge:** Work requires knowledge of a specific vocational, administrative, or technical nature which may be obtained with a two year associate's degree, diploma or equivalent from a college, technical, business, vocational, or correspondence school. Appropriate certification may be awarded upon satisfactory completion of advanced study or training.
- **Experience:** Minimum five years of experience in a related field.
- **Certifications and Other Requirements:** Valid Driver's License.
- **Reading:** Work requires the ability to read budget instructions, reports, strategic planning documents, Council Action, correspondence, software manuals, management books, trade journals, and policies at a college level.
- **Math:** Work requires the ability to perform general math calculations averaging response times, finding increases/decreases, calculating percentages, basic math, and creating charts at a college level.
- **Writing:** Work requires the ability to write memos, letters, reports, e-mail, grant proposals, award nominations, performance appraisals, correspond with customers, policies, and newsletter and newspaper articles at a college level.
- **Managerial:** Job has no responsibility for the direction or supervision of others but may provide advice/direction to an employee with less experience/skill or tenure.
- **Policy/Decision Making:** Moderate - The employee normally performs the duty assignment after receiving general instructions as to methods, procedures, and desired end results. There is some opportunity for discretion when making selections among a few, easily identifiable choices. Work involving discretion is typically reviewed before finalized.
- **Technical Skills:** Broad Application - Work requires a comprehensive, practical knowledge of a technical field with use of analytical judgment and decision-making abilities.
- **Interpersonal/Human Relations Skills:** High - Interactions may involve support of controversial positions or the negotiation of sensitive issues or important presentations. Contacts may also involve stressful, negative interactions requiring high levels of tact and the ability to respond to aggressive interpersonal interactions.

## HEALTH AND SAFETY

*Safety is everyone's responsibility. All employees are expected to work in a safe manner and report unsafe activities and conditions. The following are the physical, non-physical, health, and safety demands required of the employee based on frequency they will be performed.*

### Frequency Code Description

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  - Frequently, 33-67% of the day
  - Constantly, more than 67% of the day
- **Primary Work Location:** Office Environment
  - **Overall Strength Demands:** Light
    - Rarely: N/A
    - Occasionally: Exerting up to 20 pounds
    - Frequently: Exerting up to 10 pounds
    - Constantly: Exerting negligible amounts of walking or standing
  - **Physical Demands**
    - Rarely: Lifting, kneeling, pushing, pulling, balancing, crouching, and twisting
    - Occasionally: Carrying, reaching, climbing and foot controls
    - Frequently: Standing, walking, handling, hearing, and talking
    - Constantly: Fine dexterity and vision
  - **Non-Physical Demands**
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    - Occasionally: Frequent change of task, irregular schedule, overtime

- Frequently: Time pressure, performing multiple tasks simultaneously
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### Health and Safety Conditions

- **Chemical**
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  - Occasionally: N/A
  - Frequently: N/A
  - Constantly: N/A
- **Physical Hazards**
  - Never: Thermal stress, electrical, noise, fire/explosion, radiation,
  - Rarely: Being struck by or struck against
  - Occasionally: Slips, trips and falls, caught in/on/between, pinch points
  - Frequently: N/A
  - Constantly: N/A
- **Biological Hazards**
  - Never: Building related illness, legionnaires disease, blood borne pathogens, plant or insect bites, water and wastewater, brucellosis and mold
  - Rarely: N/A
  - Occasionally: N/A
  - Frequently: N/A
  - Constantly: N/A
- **Ergonomic Hazards**
  - Never: Forceful exertion, contact stress and vibrations
  - Rarely: Work area design, awkward posture
  - Occasionally: Repetition
  - Frequently: N/A
  - Constantly: N/A

### Machines, Tools, Equipment and Work Aids

- Heavy Equipment: Sedan vehicle if required
- Specialty Equipment: N/A
- Tools: N/A
- Computer Equipment and Software
  - Hardware: Desktop/laptop, telephone, copier
  - Software: Microsoft Office 365, Munis, ShoreTel, Adobe Reader or Pro
- Protective Equipment Required
  - General: N/A
  - Specialty: N/A

### **STAFF BEHAVIORS AND EXPECTATIONS**

Embrace our core values that reflect who we are and what we do.

- **Integrity** – Be consistent by aligning actions with words. Be trustworthy by conducting oneself with the highest degree of honesty. Be transparent by doing the right thing even when no one is looking.
- **Empathy** – Be respectful by treating others with respect; respect the feelings, experiences, and perspectives of others. Be kind by showing consideration and taking care to support one another. Be aware by actively listening; seek to understand, then to be understood, and appreciating diversity and differences (think about true colors).
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Employee Signature

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Date

**Job Title:** Assistant to the Council

**Department:** City Manager  
**Immediate Supervisor:** Assistant to the Mayor

**Origination Date:** 07/01/2008

**Revision Date:** 04/18/2024

**Job Grade:** 606

**FLSA Status:** Exempt

## JOB DESCRIPTION SUMMARY

The Assistant to the Council provides a wide variety of professional support to the Council. In addition, this position represents the Council at city-related meetings when required and appropriate. The position provides extensive professional assistance, project management, and recommendations on City issues and performs highly responsible administrative work covering a broad range of municipal activities. This is a professional position requiring exceptional analytical and communication skills.

## ESSENTIAL FUNCTIONS

*This information is intended to be descriptive of the key responsibilities of the position. The following functions do not identify all duties performed by the incumbent. Other duties and responsibilities will be performed as assigned.*

- Prepares reports and verbal and written correspondence on behalf of the Council. Assists in setting the Council's schedules.
- Conducts research and special projects and assures implementation of programs developed and initiated by the Council. Coordinates the response to issues raised by citizens of Goodyear by coordinating with Departments or other appropriate parties to respond. Advises the Council on unresolved issues that must be addressed.
- Provides a visible link between elected officials and the public, acting as a representative in dealings with constituents (both individually and in groups), and city departments and committees.
- Responds to Citizen Inquiries and complaints with the utmost tact and resourcefulness in seeking solutions to the problems presented from within Goodyear and other agencies. Communicates with citizens, management, public officials, general public, and other City employees in order to resolve complaints and inquiries and provide requested information or referral.
- Composes correspondence dealing with city-related issues and subject matter in ways that sometimes requires considerable sensitivity, discretion, judgment, or negotiation in replying to inquiries, and/or presenting or requesting information.
- Attends City Council meetings and work sessions; researches, responds to and prepares correspondence; sets up meetings and conferences; responds to telephone inquiries; performs necessary follow up, and communicates with City management on sensitive and/or confidential issues received by the Council.
- Drafts information points, speeches, newsletter articles, social media posts, and other communications.

- Ensures Councilmembers are prepared for city-related meetings including providing research, coordinating logistics, and preparing materials.
- Knowledgeable about a variety of City issues and able to state the Council's position on such issues. This includes supporting Council's involvement in regional and national activities as directed by intergovernmental affairs staff. Incumbent must exercise considerable judgment in their capacity with the responsibility for analyzing policy issues, identifying city-wide impacts, and coordinating responses on strategies and alternatives for dealing with the issues.

## JOB REQUIREMENTS

- **Formal Education/Knowledge:** Work requires broad knowledge in a general professional or technical field. Knowledge is normally acquired through four years of college resulting in a Bachelor's degree or equivalent.
- **Experience:** Minimum of three year experience in a related field.
- **Certifications and Other Requirements:** Valid Driver's License.
- **Reading:** Work requires the ability to read and comprehend city regulation agreements, council action reports, and trade journals.
- **Math:** Work requires the ability to perform general math calculations such as addition, subtraction, multiplication, and division.
- **Writing:** Work requires a high-level command of the English language with the ability to write memoranda, correspondence, reports and produce written documents with clearly organized thoughts using proper English sentence construction, punctuation, and grammar.
- **Managerial:** Job has no responsibility for the direction or supervision of others but may provide advice/direction to an employee with less experience/skill or tenure.
- **Budget Responsibility:** Has no budget responsibility
- **Policy/Decision Making:** Significant - The employee normally performs the duty assignment after receiving general instructions as to methods, procedures, and desired end results. There is some opportunity for discretion when making selections among a few, easily identifiable choices. Work involving discretion is typically reviewed before finalized.
- **Technical Skills:** Comprehensive Application - Work requires a comprehensive, practical knowledge of a technical field with use of analytical judgment and decision-making abilities appropriate to the work environment of the organization. This includes the ability to understand and navigate complex governmental processes.
- **Interpersonal/Human Relations Skills:** High - Interactions at this level usually impact the implementation of policies. Contacts may involve interpretation of how policies are implemented and may require discussion and the support of controversial positions or the negotiation of sensitive issues or important presentations. During interactions on policy implementation, contacts may also involve stressful, negative interactions requiring high levels of tact and the ability to respond appropriately to aggressive interpersonal interactions.

## HEALTH AND SAFETY

*Safety is everyone's responsibility. All employees are expected to work in a safe manner and report unsafe activities and conditions. The following are the physical, non-physical, health, and safety demands required of the employee based on frequency they will be performed.*

### Frequency Code Description

- Rarely, less than 1 hour/day
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  - Never: Forceful exertion, contact stress and vibrations
  - Rarely: Work area design, awkward posture
  - Occasionally: Repetition
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- Heavy Equipment: Sedan vehicle if required
- Specialty Equipment: N/A
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  - Hardware: Desktop/laptop, telephone, copier
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## STAFF BEHAVIORS AND EXPECTATIONS

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Employee Signature

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Date

**Job Title:** Assistant to the Mayor

**Department:** City Manager's Office

**Immediate Supervisor:** Assistant to the City Manager

**Origination Date:** 07/01/2008

**Revision Date:** 03/03/2020

**Job Grade:** 609

**FLSA Status:** Exempt

## JOB DESCRIPTION SUMMARY

The Assistant to the Mayor provides a wide variety of professional support to the Mayor. In addition, this position represents the Mayor at meetings when required and appropriate, which could include early mornings, evenings and weekends. The position provides extensive professional assistance, project management, and recommendations on city issues and performs highly responsible administrative work covering a broad range of municipal activities. This is a professional position requiring extensive experience and exceptional analytical and communication skills.

## ESSENTIAL FUNCTIONS

*This information is intended to be descriptive of the key responsibilities of the position. The following functions do not identify all duties performed by the incumbent. Other duties and responsibilities will be performed as assigned.*

- Responsible for supervision of the Mayor and City Council office. Hires and supervises the Assistant to the Council.
- Prepares reports via verbal and written correspondence on behalf of the Mayor and City Council.
- Conducts research and special projects as directed by the Mayor.
- Directs the resolution of issues raised by citizens of Goodyear by coordinating with department leadership or other appropriate parties to respond. Advises the Mayor on unresolved issues that must be addressed.
- Citizen inquiries and complaints are directed to this employee who must respond with the utmost tact and resourcefulness in seeking solutions to the problems presented from within Goodyear and other agencies. Communicates with citizens, management, public officials, the general public, and other city employees in order to receive complaints and inquiries and provide requested information or referral.
- Provides a visible link between elected officials and the public, acting as a representative in dealings with constituents (both individually and in groups), city departments, and committees if necessary. Ensures accurate and timely flow of information between Council and city departments.
- Assists the Assistant to the City Manager with strategic planning and tasks related to Mayor and Council.
- Composes correspondence dealing with issues and subject matter in ways that sometimes requires considerable sensitivity, discretion, judgment, or negotiation in replying to inquiries, and/or presenting or requesting information.
- Attends City Council meetings and work sessions; researches, responds to and prepares correspondence; sets up meetings and conferences; responds to all inquiries, performs necessary follow up, and communicates with city management on sensitive and/or confidential issues received by the Mayor's office.
- Conducts research and prepares the Mayor for meetings, public appearances, events and any other activities related to the Mayor's role. Assists with planning, coordinating and monitoring special programs, projects and events.

- Must become knowledgeable about a variety of city issues and be able to state the Mayor’s position on such issues. This includes knowledge of and a close working relationship with staff handling intergovernmental affairs. Incumbent must exercise considerable judgment in their capacity with the responsibility for analyzing policy issues, identifying city-wide impacts, and coordinating responses on strategies and alternatives for dealing with the issues.

## JOB REQUIREMENTS

- **Formal Education/Knowledge:** Work requires broad knowledge in a general professional or technical field. Knowledge is normally acquired through four years of college resulting in a Bachelor's degree or equivalent.
- **Experience:** Minimum five years of experience in a related field.
- **Certifications and Other Requirements:** Valid Driver’s License.
- **Reading:** Work requires the ability to read and comprehend council actions, reports and advanced correspondence
- **Math:** Work requires the ability to perform general math calculations such as addition, subtraction, multiplication, and division.
- **Writing:** Work requires the ability to write memoranda, correspondence, reports and produce written documents with clearly organized thoughts using proper English sentence construction, punctuation, and grammar.
- **Managerial:** Semi-Complex - Work requires supervising and monitoring performance for a regular group of employees including providing input on hiring/disciplinary actions and work objectives/ effectiveness, performance evaluations, and realigning work as needed. A first line supervisor typically performs these functions.
- **Budget Responsibility:** Has no budget responsibility.
- **Policy/Decision Making:** Significant - The employee normally performs the job by following established standard operating procedures and/or policies. There is a choice of the appropriate procedure or policy to apply to duties. More complex work as well as decisions with more significant impacts are typically reviewed prior to being finalized.
- **Technical Skills:** Comprehensive Application - Work requires a comprehensive, practical knowledge of a technical field with use of analytical judgment and decision-making abilities appropriate to the work environment of the organization.
- **Interpersonal/Human Relations Skills:** High - Interactions at this level typically result in recommendations regarding policy development, changes in policy, and implementation of policies. Interactions at this level are typically concerned with providing communications at higher levels of organizational operations and may utilize activities such as evaluating customer satisfaction, developing cooperative associations, and allocating resources to improve work operations, work quality, overall achievement of organizational goals and objectives, and customer satisfaction.

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## LEADERSHIP BEHAVIORS AND EXPECTATIONS

- Coaching and Mentoring
  - Leading with humility
  - Building a trusting environment
  - Facilitating employee development
  - Providing positive, meaningful work for employees
  - Welcoming employee involvement in decision-making and listening to employee opinions
  - Appreciating, recognizing and reinforcing employee contributions
  - Fostering teamwork
  - Encouraging employees to be problem solvers, however, providing assistance when problems are elevated
  - Supporting others to successfully manage organizational and departmental change
  - Addressing performance problems and issues promptly
- Operational Excellence
  - Setting clear, actionable goals and expectations that align with organizational vision, mission, and strategy
  - Champion the culture
  - Engaging employees to maximize individual contribution to drive organizational success
  - Promoting employee wellbeing by encouraging participation in wellness and safety programs
  - Achieving quality results by measuring progress against goals
  - Sharing information, advice, and constructive feedback to help others be more successful

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Employee Signature

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Date



# MEETINGS, PROCEDURES & COUNCIL GUIDELINES



# MEETINGS, PROCEDURES, & COUNCIL GUIDELINES

## Agenda

- City Council Meeting Rules of Procedure
- Open Meeting Law
- Ethics
- Governance Relations System
- Council Support





# City Council Meetings Rules of Procedure

## What is it?

- Types of Meetings
- Order of business
- Outlines how meetings are conducted
- Motion and voting procedures

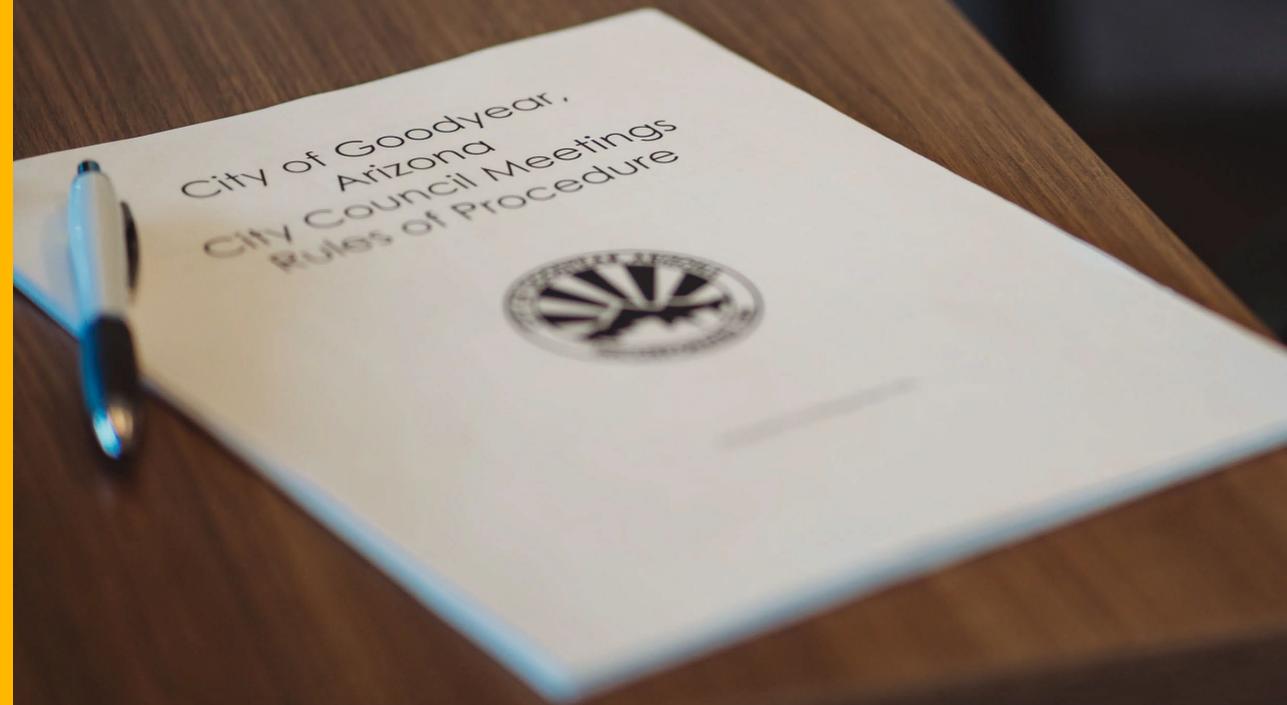




# City Council Meetings Rules of Procedure

## Background & History

- Required by Charter
- Adopted by Resolution
- Last updated 2018





MEETING  
IN PROGRESS

## Types of Meetings

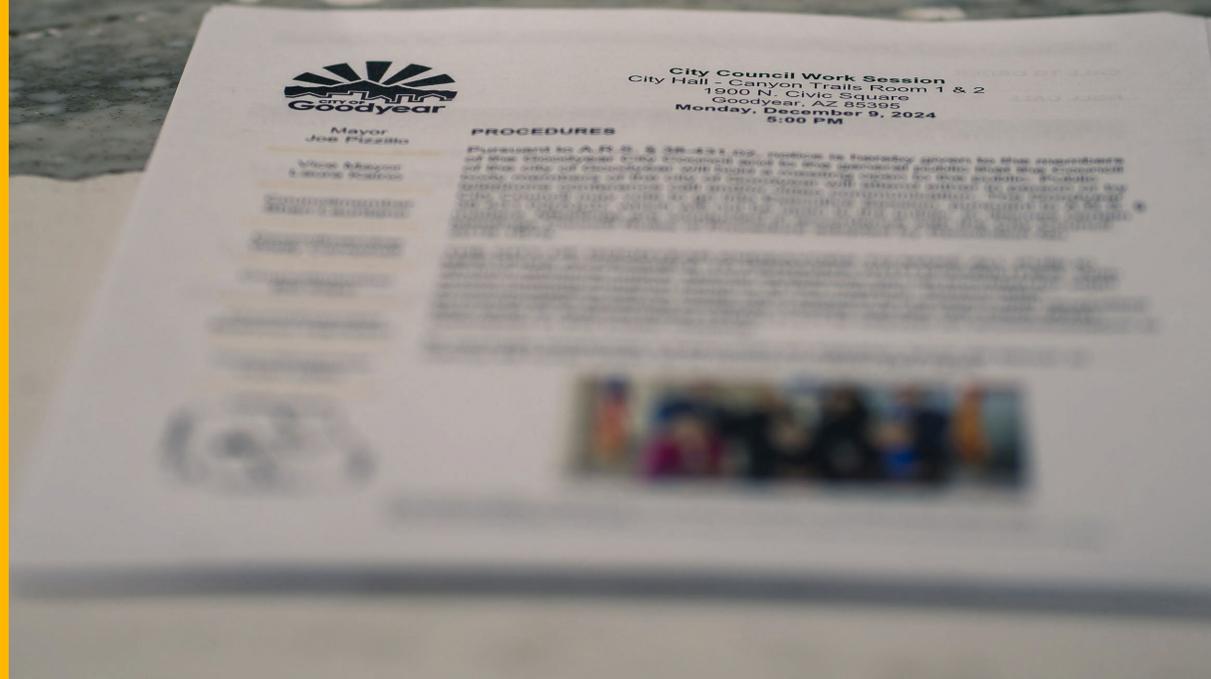
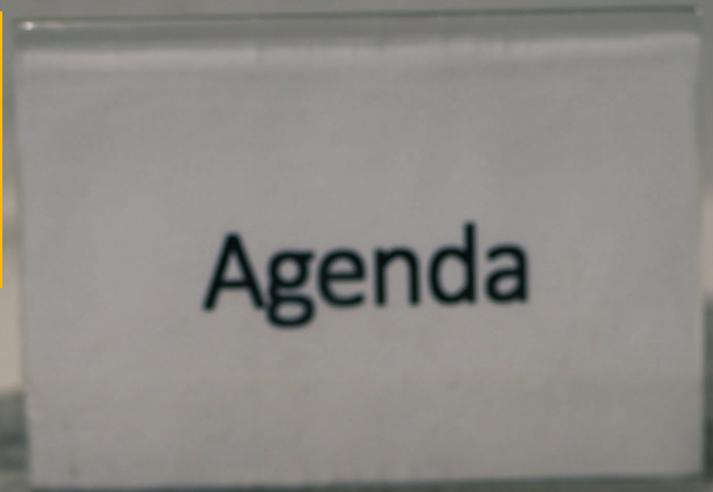
- Regular Meetings
- Special Meetings
- Work Sessions



# City Council Meetings Rules of Procedure

## Order of Business

- Roll Call
- Public Comments
- Communications

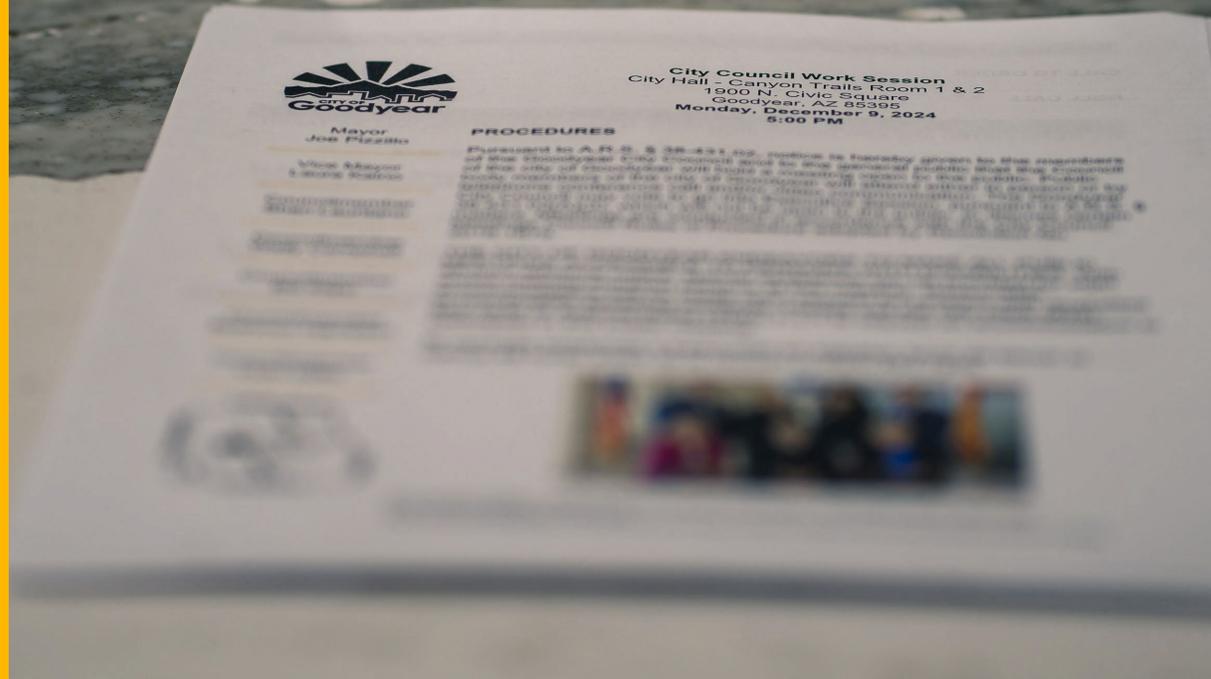
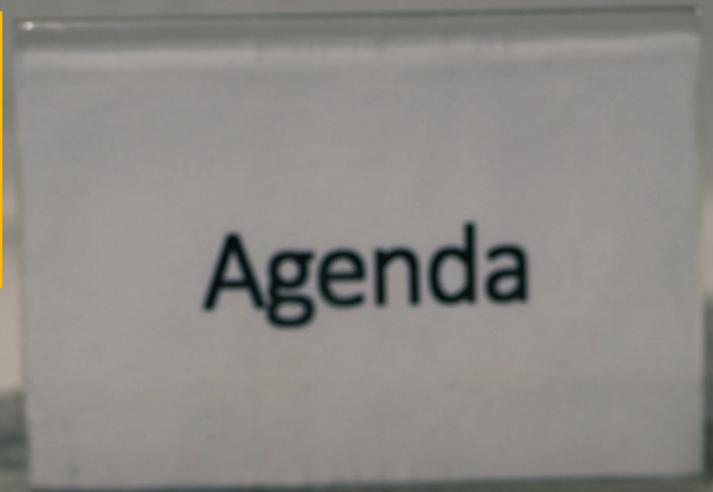




# City Council Meetings Rules of Procedure

## Order of Business

- Consent Agenda
- Public Hearings
- Business

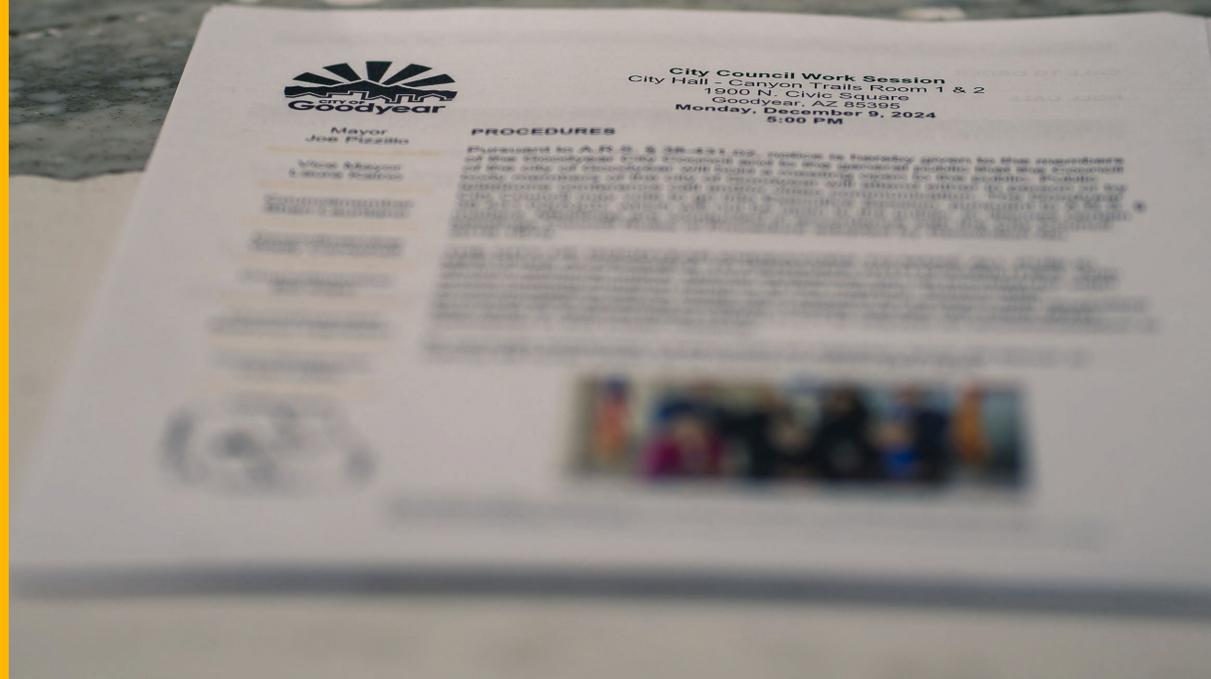
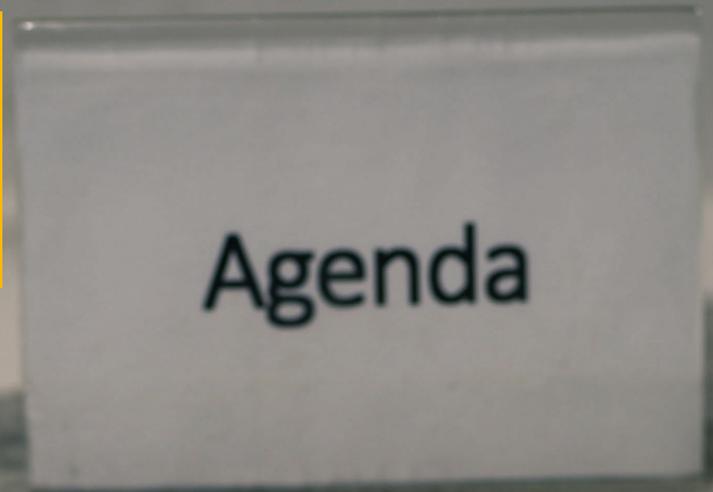




# City Council Meetings Rules of Procedure

## Order of Business

- Information Items
- Executive Session
- Adjournment





# City Council Meetings Rules of Procedure

## Roles and Responsibilities

- Open to the public
- Requires a quorum
- Presiding Officer
- Speaking/Time Limits
- Parliamentarian





# City Council Meetings Rules of Procedure

## Processing Motions

- General Motions
- Motion to Amend
- Motion to Table

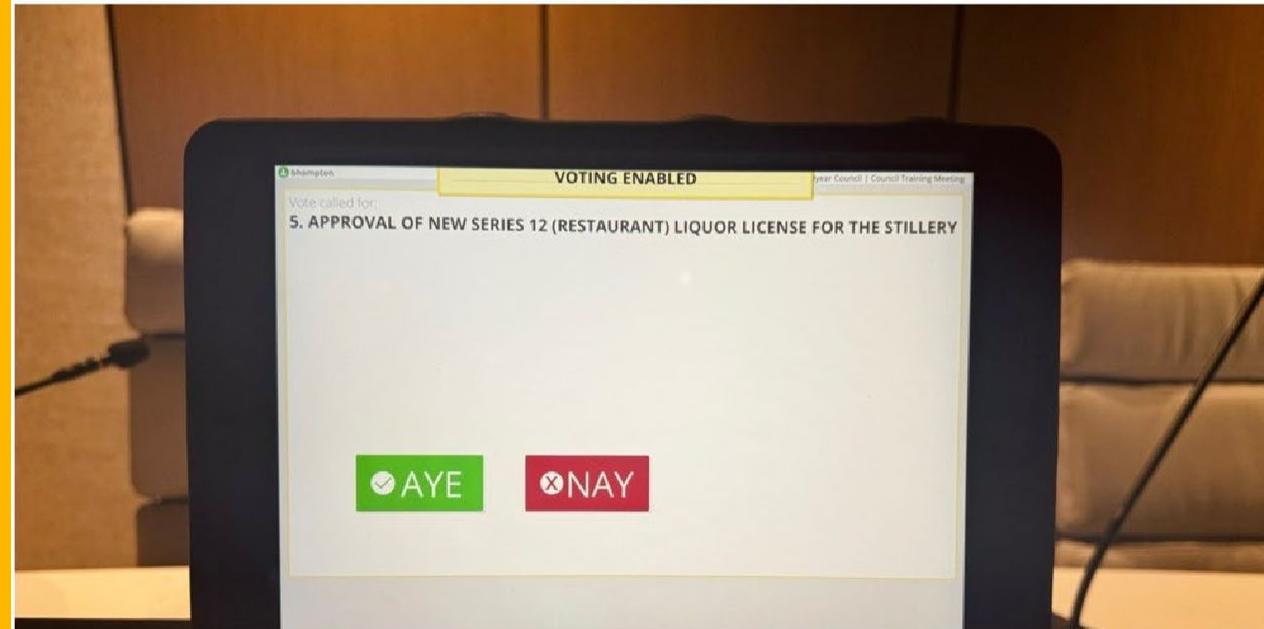
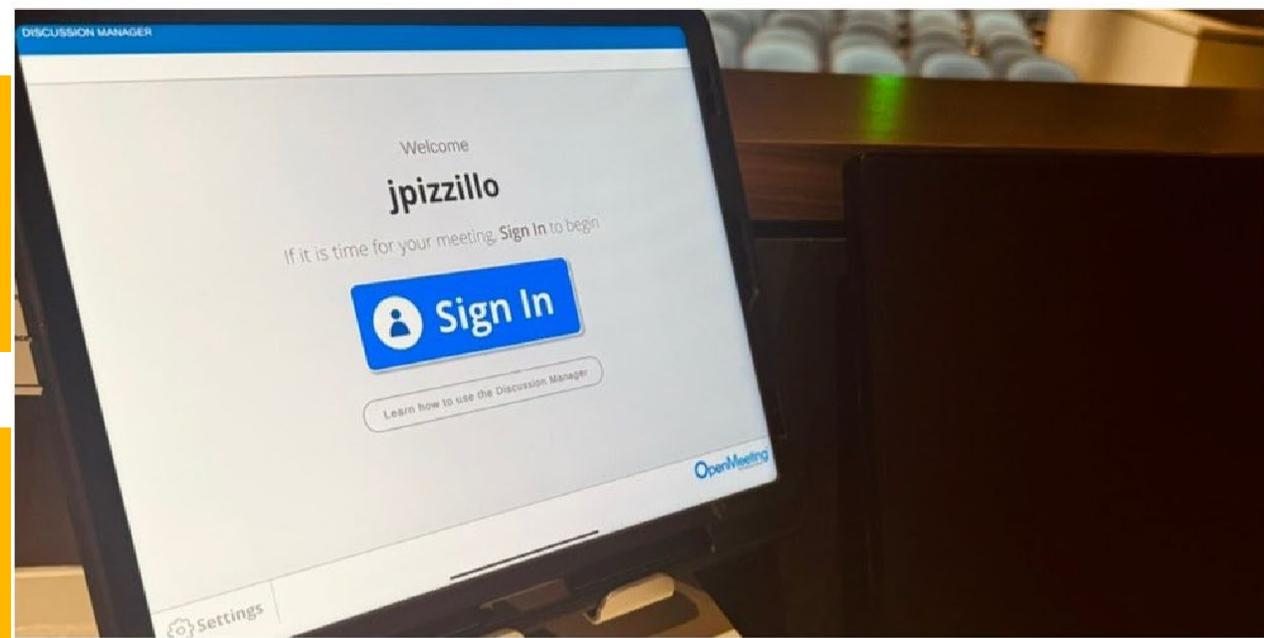




# City Council Meetings Rules of Procedure

## Voting Procedures

- Casting a vote
- Failure to vote
- Tie votes





# City Council Meetings Rules of Procedure



**ORDER OF THE  
AGENDA**



**APPLICANT  
PRESENTATIONS**



**PUBLIC  
COMMENTS**



**GENERAL  
UPDATES**

# MEETINGS, PROCEDURES, & COUNCIL GUIDELINES

## Agenda

- City Council Meeting Rules of Procedure
- **Open Meeting Law**
- Ethics
- Governance Relations System
- Council Support





# Open Meeting Law Purpose

- Protect the Public
- Transparency
- Protect Public Officials
- Maintain Integrity
- Build Trust
- Keep Citizens Informed



# Public Business to be done in Public

- All persons shall be permitted to attend and listen to the deliberations and proceedings
- All legal action of public bodies shall occur during a public meeting





# What is a Meeting?

- A gathering, in person or through technological devices
- A quorum of members of a public body
- At which they discuss, propose, or take legal action;
- Including any deliberations by a quorum concerning such action



# Who Must Comply?

## “ANY PUBLIC BODY”

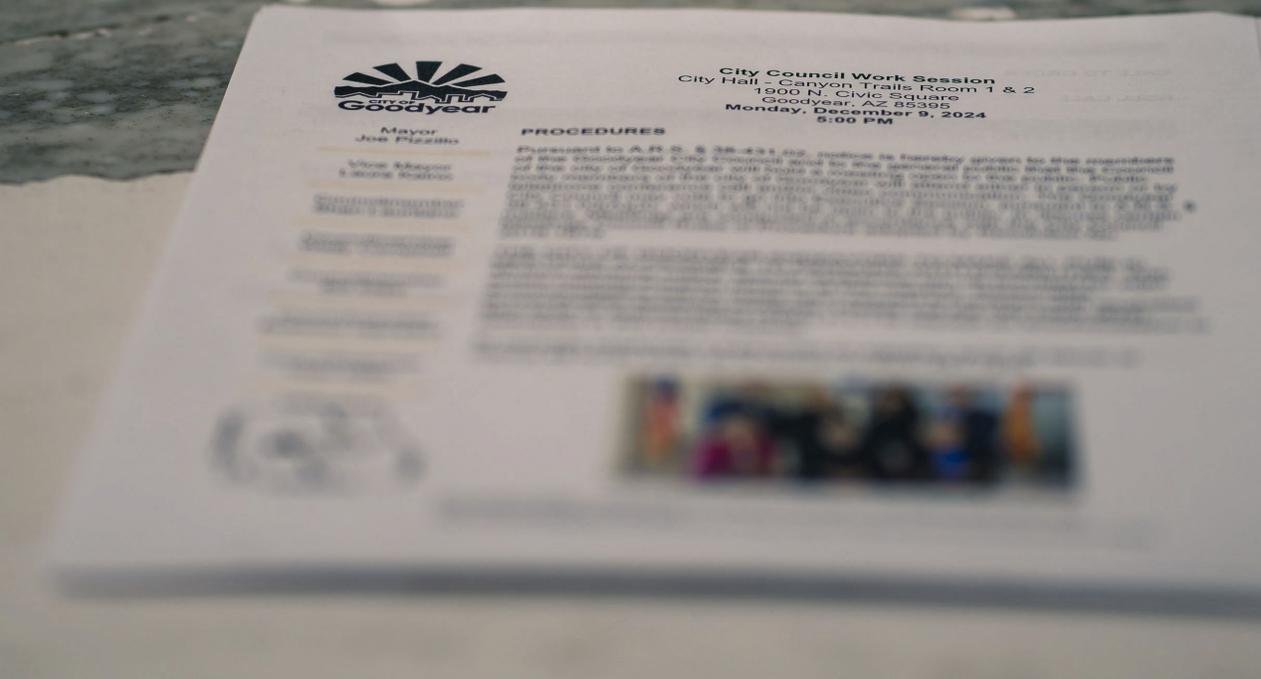
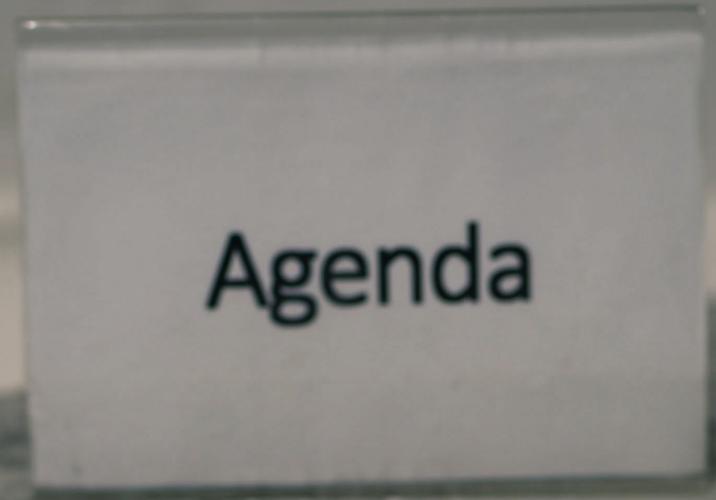
- City Council
- Youth Commission
- Planning & Zoning Commission
- Parks and Recreation Advisory Commission
- Other City Committees & Sub-Committees





## Open Meeting Law Requires:

- Advance Notice
- An Agenda
- Minutes



# Agenda

## Agenda Must Include:

- Location
- Date and Time of Meeting
- Call to Order
- Roll Call
- Business Items



## At the Meeting

- Determine quorum
- Roll Call
- Persons addressing the Body should identify themselves
- Accessibility
- Record motion & maker of motion





# Public Rights

- Permitted to attend
- Cannot be required to sign in
- Not permitted to speak, unless the public body allows it





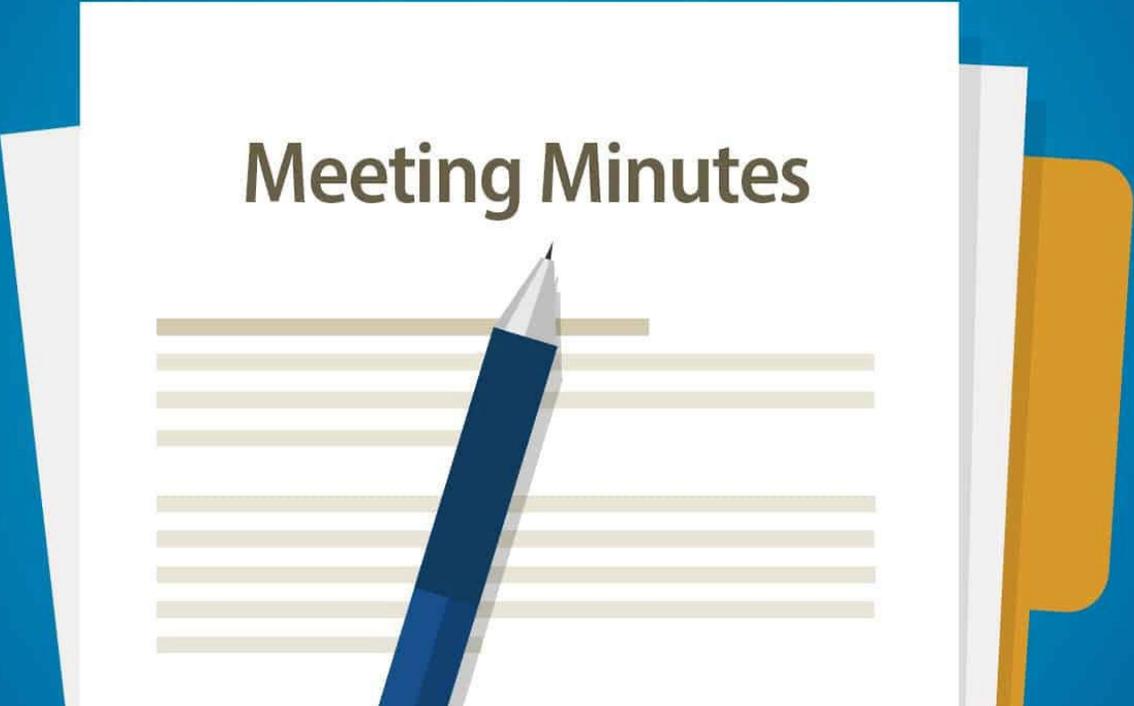
# Public Rights

- Must identify themselves (for minutes)
- Cannot disrupt proceedings
- Limit the speaking time of each speaker



# After the Meeting

- Draft minutes must be posted to the website
- Draft minutes are approved at next regularly scheduled meeting

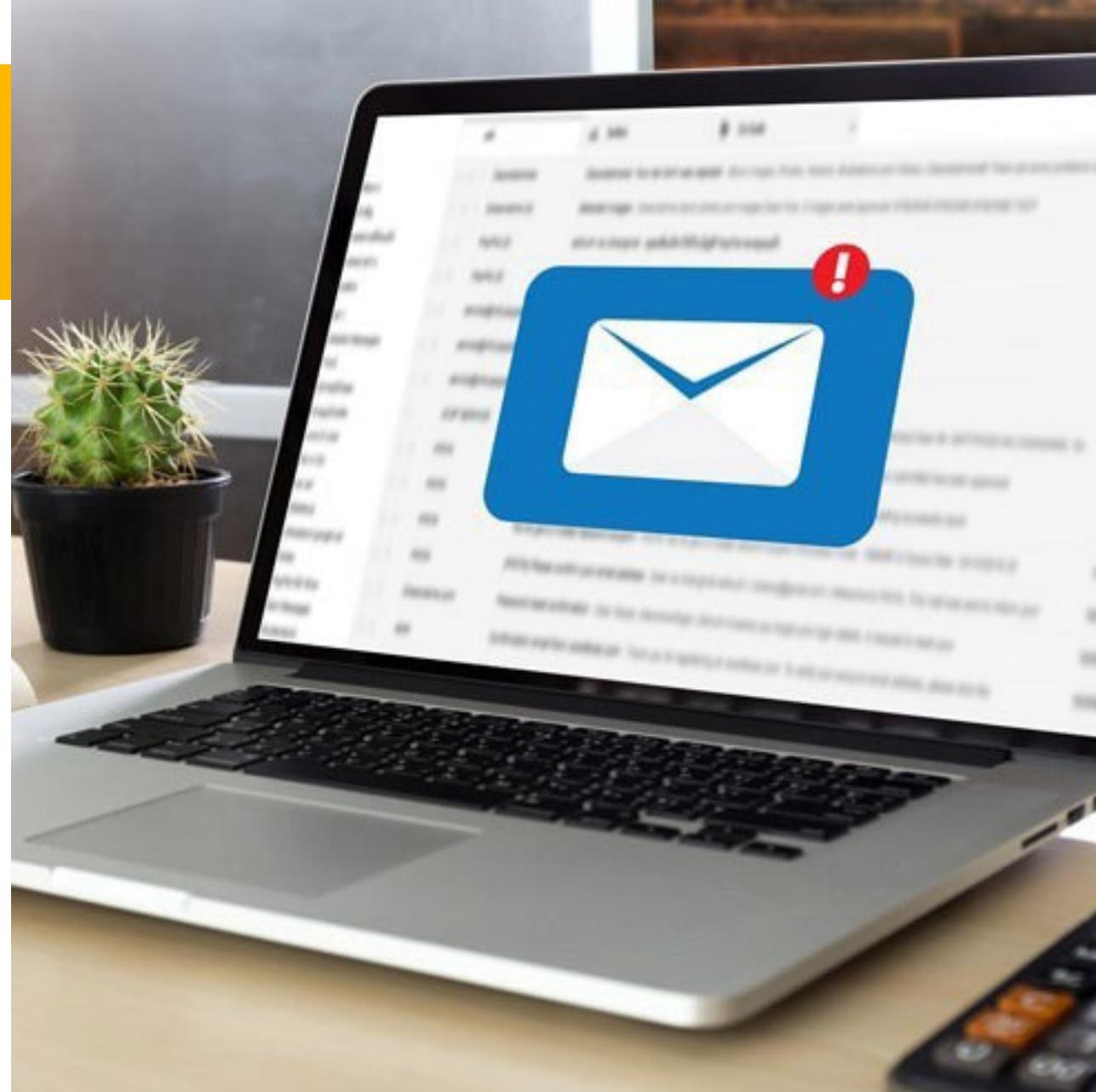


## Meeting Minutes



# Email Communications

Emails between Council members are treated the same as any other form of communication

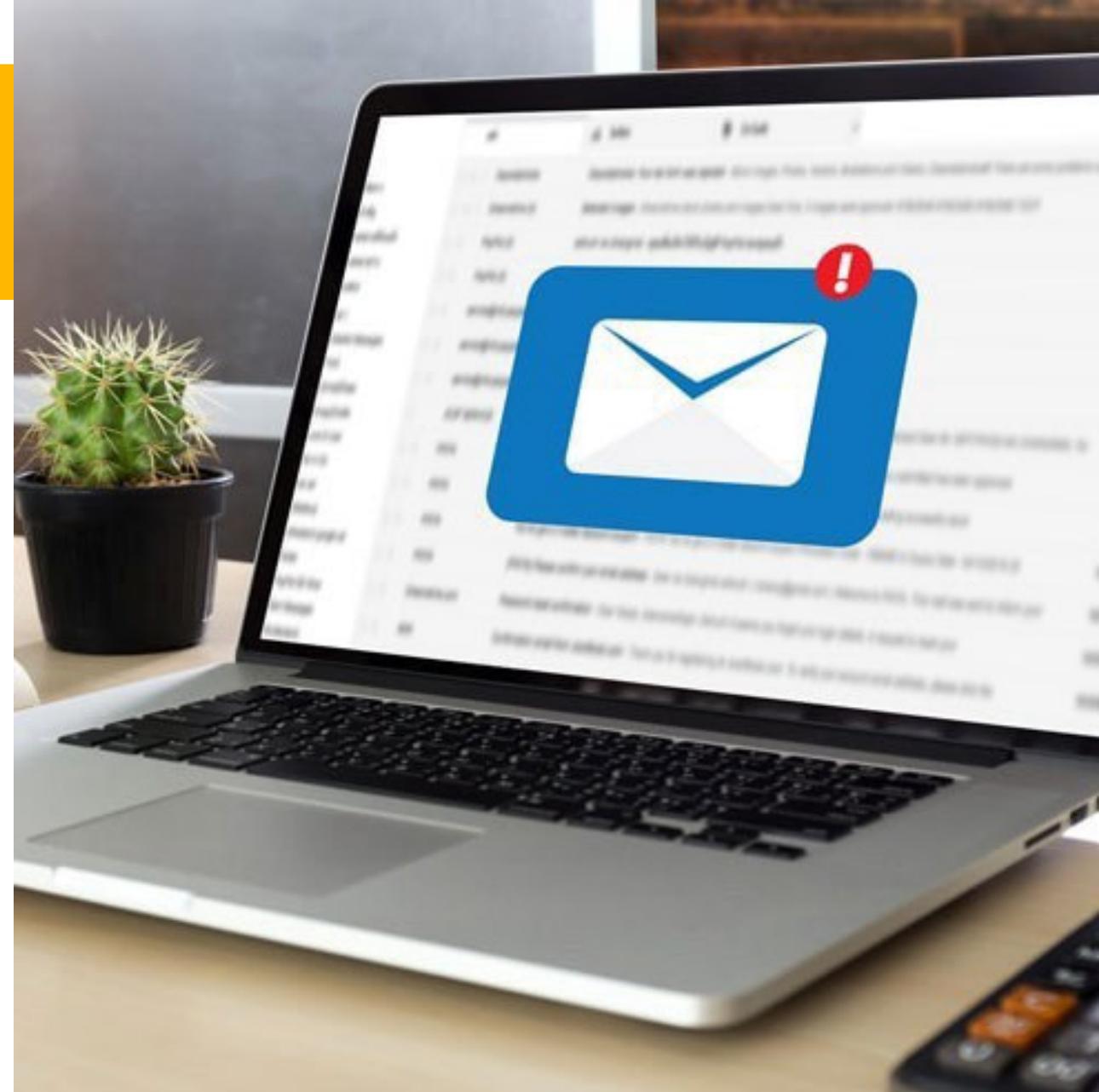




# Email Communications

Emails exchanged among a Quorum of the Council that involve:

- discussions
- deliberations
- or taking legal action on matters constitute a meeting
- violate Open Meeting Law

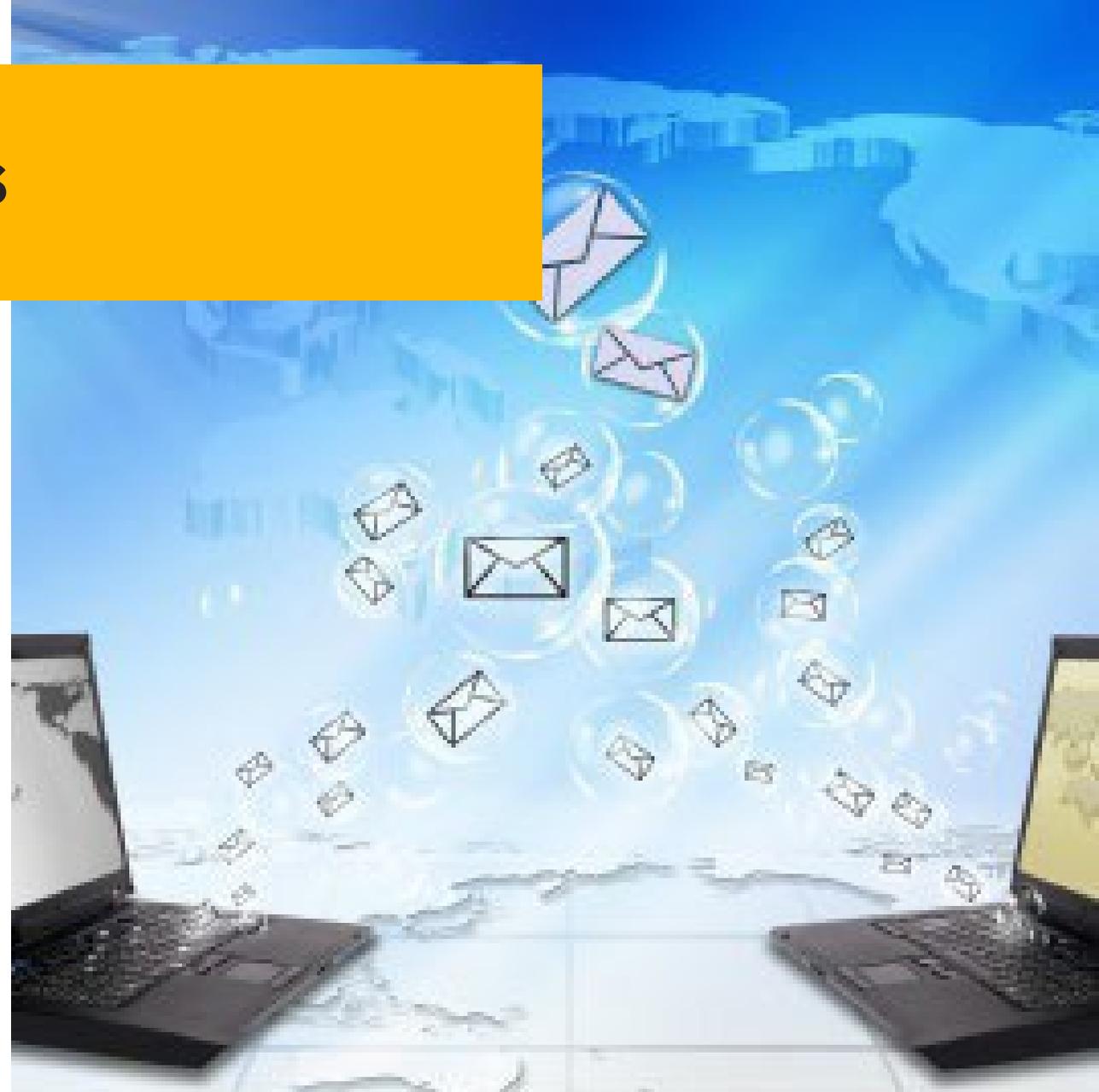




# Email Precautions

Council members may not:

engage in discussions or share opinions *(via e-mail or by other forms of communication)* related to information provided outside of a public board meeting.



# Email Precautions

- Emails of Council members are public record
- Must be maintained for public reproduction and inspection.



# Email Precautions

## **BOTTOMLINE:**

E-mail communications should be used cautiously and should NEVER discuss, deliberate, or propose legal action on matters that may foreseeably come before the Board for action.



# MEETINGS, PROCEDURES, & COUNCIL GUIDELINES

## Agenda

- City Council Meeting Rules of Procedure
- Open Meeting Law
- **Ethics**
- Governance Relations System
- Council Support





# Ethics in City Contracts

## ARIZONA LAW PROHIBITS

Any elected or appointed official, employee or volunteer who has “a substantial interest in any contract, sale, purchase or service to such public agency” from receiving personal gain such as for self, family, friends, creditors, business associates or employees in the course of a transaction, decision or contract on behalf of the City.



## Elected and Appointed Officials shall:

- Not be involved in any activity which conflicts with their responsibilities to the City and its residents
- Disclose Any personal affiliations that could be an undue influence on City business
- Refrain from voting on/lobbying for issues that conflict or violate the principles of the City's Ethics Policy.





## Ethics and Management of Confidential Information

### As an Elected or Appointed Official

- You have Access to important non-public information
- Disclosure of inside information may cause City monetary loss
- Disclosure deteriorates public confidence



# Ethics and Gifts

- Potential to Influence decisions
- Creates perceptions of Impropriety
- Best Practice to Refuse Gifts
- Cannot accept from Registered Lobbyist
- Must Disclose





## Ethics and Undue Influence

Undue influence involves one person taking advantage of a position of power over another person.





# Ethics – Undue Influence

No current elected or appointed official, employee or volunteer of the City of Goodyear shall knowingly, or with reason to know:



Use or attempt to use his or her official position to secure for him or herself and/or others unwarranted privileges or exemptions which are of substantial value, and which are not properly available to similarly situated individuals;



# Ethics – Undue Influence

No current elected or appointed official, employee or volunteer of the City of Goodyear shall knowingly, or with reason to know:



Act in a manner that would cause a reasonable person to conclude that any person can improperly influence or unduly enjoy his or her favor in the performance of his or her official duties, or that he or she is likely to act or fail to act because of kinship, rank, position or undue influence of any party or person; or



# Ethics – Undue Influence

No current elected or appointed official, employee or volunteer of the City of Goodyear shall knowingly, or with reason to know:



Place pressure on other elected or appointed officials, employees, or volunteers that would cause them to deviate from preferred and accepted ethical behavior.

# MEETINGS, PROCEDURES, & COUNCIL GUIDELINES

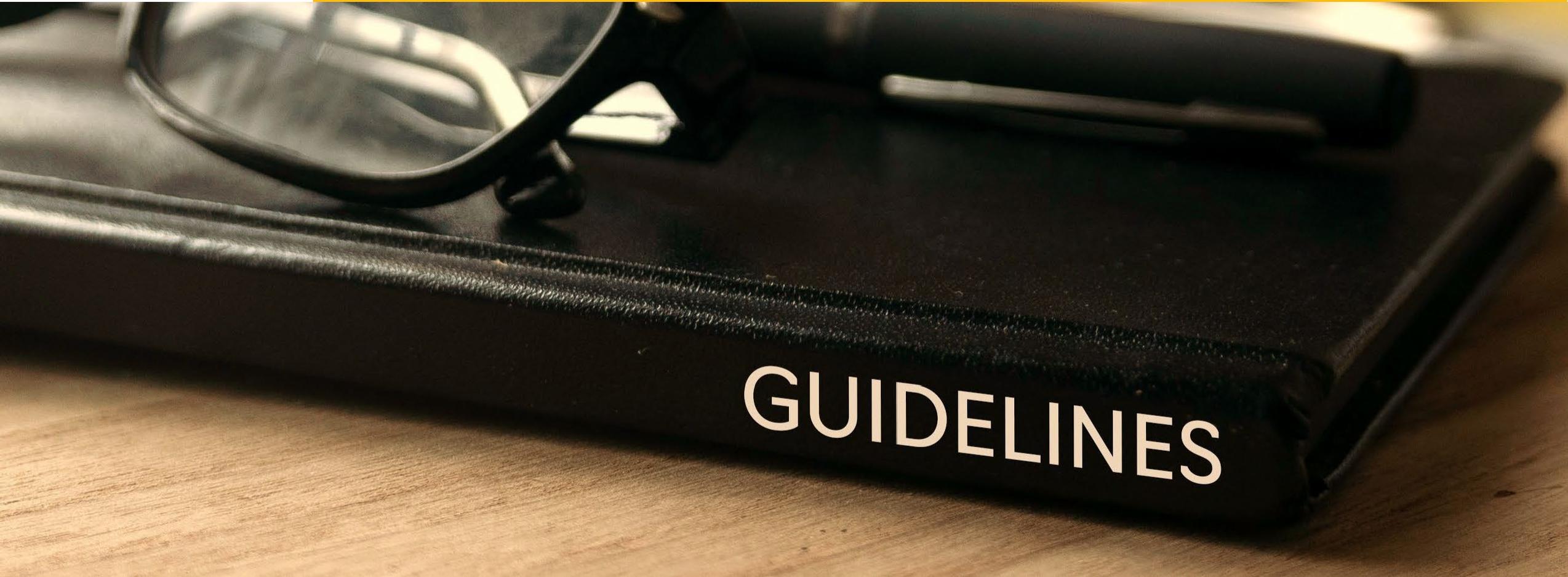
## Agenda

- City Council Meeting Rules of Procedure
- Open Meeting Law
- Ethics
- **Governance Relations System**
- Council Support





# Governance Relations System



# MEETINGS, PROCEDURES, & COUNCIL GUIDELINES

## Agenda

- City Council Meeting Rules of Procedure
- Open Meeting Law
- Ethics
- Governance Relations System
- **Council Support**

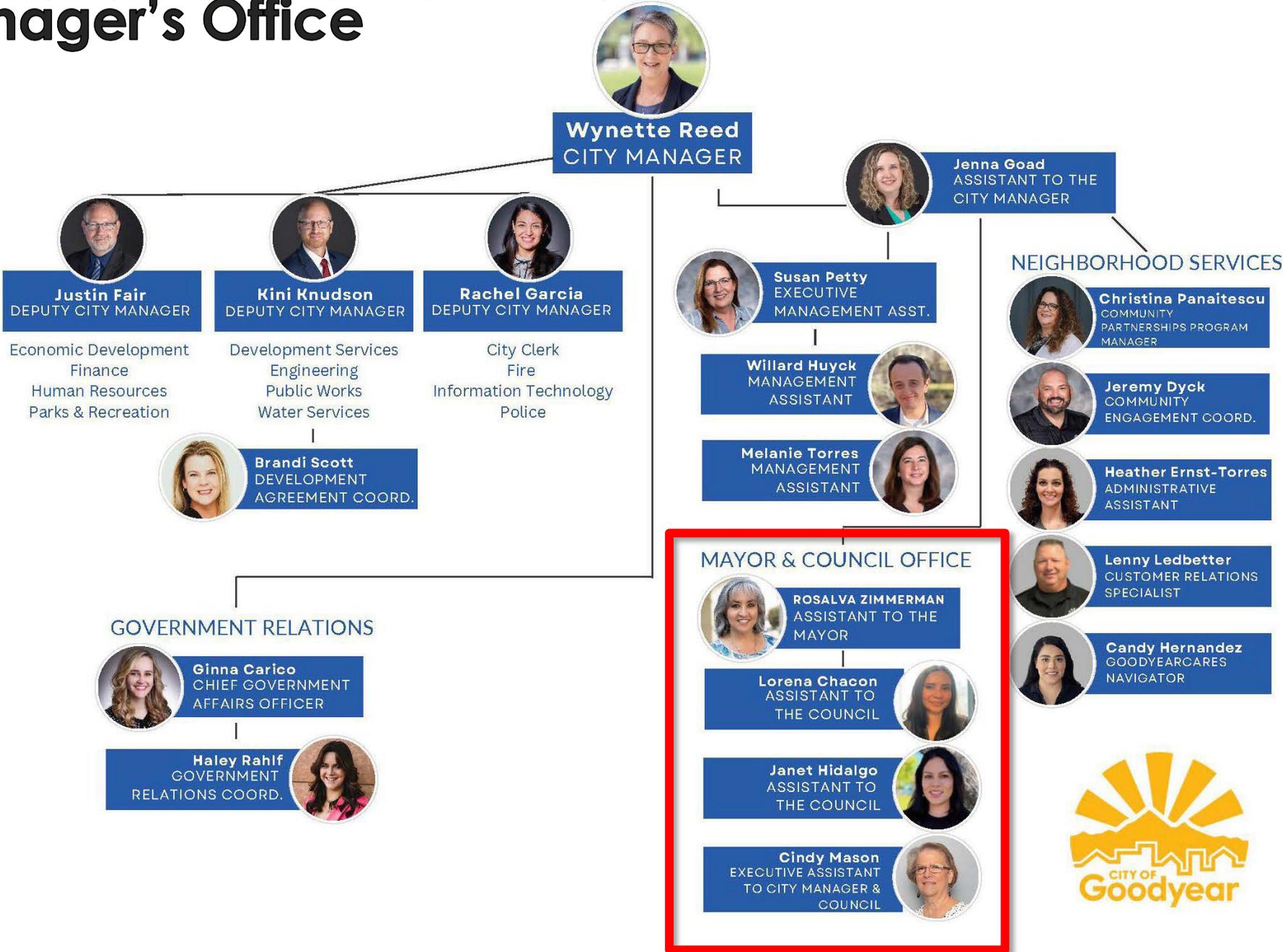




# OFFICE OF THE MAYOR & COUNCIL



# City Manager's Office



**Cindy Mason**



## **ROLE OF EXECUTIVE ASSISTANT**

- Event invitations
- Office supplies
- Proclamations
- Office budget
- Travel and meeting arrangements

# COUNCIL ASSISTANTS

**Lorena Chacon**



**Supports Councilmembers  
Kaino, Gillis, & Terry**

**Janet Hidalgo**



**Supports Councilmembers  
Campbell, Hampton, & Beckles**

# ROLE OF COUNCIL ASSISTANTS

- City related business including:
  - Correspondence
  - Meetings and events
  - Speaking points or presentations
  - Research



Rosalva Zimmerman



## ROLE OF ASSISTANT TO THE MAYOR

- Support for Mayor in addition to:
  - Supervise 3 staff
  - Ensure coverage for absences
  - Ensure Council needs are being met



## PROHIBITED ACTIVITIES

- Campaign related
- Election related
- Personal or business related
- Anything that violates other city policies or guidelines





# OFFICE OF THE MAYOR & COUNCIL



ITEM #: 2.  
DATE: 01/13/2025  
AI #:2362



## **CITY COUNCIL ACTION REPORT**

**SUBJECT: 2025 STATE AND FEDERAL LEGISLATIVE AGENDA**

**STAFF PRESENTER(S):** Ginna Carico, Chief Government Affairs Officer & Haley Rahlf, Government Relations Coordinator

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### **Summary**

Staff will provide a recap of the 2024 Legislative Session and present the 2025 State and Federal Legislative Agenda. (Ginna Carico, Chief Government Affairs Officer & Haley Rahlf, Government Relations Coordinator)

### **FISCAL IMPACT**

The legislative agenda includes aspects to protect existing state and local revenues, as well as to explore available resources such as state and federal appropriations.

### **BACKGROUND AND PREVIOUS ACTIONS**

Council approval of the 2024 Legislative Agenda by resolution on December 11, 2023, which continues to be the guiding document until an updated legislative agenda is approved.

### **STAFF ANALYSIS**

The first Regular Session of Arizona's 57th Legislature convened today, Monday, January 13, 2025. The 119th United States Congress convened on January 3, 2025, and will conclude on January 3, 2027.

At the beginning of each legislative session, the Government Relations staff seeks Council adoption of the legislative agenda, which defines the City's legislative priorities and guides the City's government relations activities.

Throughout the year, Government Relations staff will provide regular updates on activity related to the legislative agenda, as well as any other legislative activity that could have an impact on Goodyear and other municipalities. Government Relations staff may return to Council to present the information and receive formal direction on specific bills and/or amendments that may have a significant impact, or do not fall under the guiding principles established in the legislative agenda. Attachment A provides a snapshot of the proposed 2025 federal and state legislative priorities. Attachment B provides more detail and definition of the proposed 2025 federal and state legislative priorities and core values.

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**Attachments**

Attachment A - 2025 Legislative Priorities - Overview  
Attachment B - 2025 Legislative Priorities - Detailed  
Presentation

# 2025 LEGISLATIVE PRIORITIES

## CITY OF GOODYEAR, ARIZONA

Goodyear Mayor and Council are committed to providing a safe and prosperous community through fiscally-responsible, balanced and strategic planning. This document reflects the City's 2025 federal and state legislative priorities to assist in fulfilling this mission.

### CORE VALUES

#### PRESERVE LOCAL AUTHORITY & PURSUE LOCAL FUNDING

**Support** local decision-making authority and protect existing municipal revenues.



#### SAFEGUARD GOODYEAR'S HIGH QUALITY OF LIFE

**Maintain** attributes that make Goodyear a desirable community.



#### COLLABORATE TO BUILD A ROBUST TRANSPORTATION NETWORK

**Provide** modern, reliable, and efficient transportation.



#### PROTECT & ENHANCE WATER SUPPLY

**Preserve** Goodyear's ability to supply assured, safe, and sustainable water.

#### SUSTAIN THE MISSION OF LUKE AIR FORCE BASE

**Secure** the long-term mission and viability of Luke Air Force Base.



#### PROMOTE ECONOMIC DEVELOPMENT & PROSPERITY

**Encourage** and pursue economic development opportunities.

#### SUPPORT THE PHOENIX-GOODYEAR AIRPORT

**Ensure** continued operations and coordination with the City of Phoenix.



#### Contact Us

Ginna Carico  
Chief Government Relations Officer  
[Ginna.Carico@goodyearaz.gov](mailto:Ginna.Carico@goodyearaz.gov)

Haley Rahlf  
Government Relations Coordinator  
[Haley.Rahlf@goodyearaz.gov](mailto:Haley.Rahlf@goodyearaz.gov)

# LEGISLATIVE PRIORITIES

## CITY OF GOODYEAR, AZ

### 2025 FEDERAL & STATE AGENDA

*The purpose of this document is to define the City of Goodyear's legislative priorities and core values for the 2025 federal and state legislative sessions. These principles will serve as the leading document providing direction to Government Relations staff to ensure the City is actively engaging on issues at the U.S. and State Capitols that reflect the priorities and mission of the Goodyear City Council.*

## CORE VALUES

### **PRESERVE LOCAL AUTHORITY & PURSUE LOCAL FUNDING**

Support existing funding sources that bring revenue to the City of Goodyear, which support the quality of life for its residents. The most common examples of this are the portion of state shared income tax (urban revenue sharing), state transaction privilege tax, food taxes, and Highway User Revenue Fund monies cities receive from the state. Any efforts to reduce, sweep or eliminate any of these shared revenue sources will be opposed. Support policy solutions created to offset the impact of the elimination of residential rental tax.

### **SAFEGUARD GOODYEAR'S HIGH QUALITY OF LIFE**

Maintain attributes that make Goodyear a desirable community for families and businesses alike. These may include: open space; economic prosperity; safe neighborhoods; protecting zoning and design review; efficient transportation; public safety; and managed growth.

### **COLLABORATE TO BUILD A ROBUST TRANSPORTATION NETWORK**

Engage with regional partners to ensure Goodyear's residents have reliable and efficient transportation options in and out of their community. Encourage efforts that modernize existing funding sources to ensure viability and maintenance of the transportation network.

Support federal, state, and regional funding for statewide, regional and local transportation and infrastructure projects. Ensure successful completion of Goodyear's priority projects funded in part by the region's half-cent transportation sales tax. Work collaboratively with our federal, state, regional, and other local partners to secure additional funding for the region's important infrastructure needs.



# LEGISLATIVE PRIORITIES

## CITY OF GOODYEAR, AZ

2025 FEDERAL & STATE AGENDA

### CORE VALUES

#### PROTECT & ENHANCE WATER SUPPLY

Collaborate with the Arizona Municipal Water Users Association and agency members to support legislation that prioritizes long-term water security, protects the City's aquifers, and advocates for the development of new water supplies. Identify additional water efficiency practices and conservation measures in order to protect and enhance our water portfolio while upholding the principles of the Groundwater Management Act.

Ensure the City of Goodyear is able to supply assured, safe and sustainable water and wastewater services to its residents.

#### SUSTAIN THE MISSION OF LUKE AIR FORCE BASE

Secure the long-term mission and viability of Luke Air Force Base through local and regional community support as well as any state or federal legislation that strengthens local efforts to protect the base. Specific items may include: protecting military airports, limiting encroachment, and expanding future missions.

#### PROMOTE ECONOMIC DEVELOPMENT & PROSPERITY

Maintain and enhance the caliber of economic development opportunities available to the City through supporting new and existing tools for private sector growth and revitalization. Support legislative changes that allow growth to pay for itself in order to attract new and reliable development opportunities.

#### SUPPORT THE PHOENIX-GOODYEAR AIRPORT

Continue to partner with the City of Phoenix (Arizona) to ensure continued operations of the Phoenix-Goodyear Airport. Monitor and be aware of changes made by the Federal Aviation Administration.

##### Contact Us

Ginna Carico  
Chief Government Relations Officer  
[Ginna.Carico@goodyearaz.gov](mailto:Ginna.Carico@goodyearaz.gov)

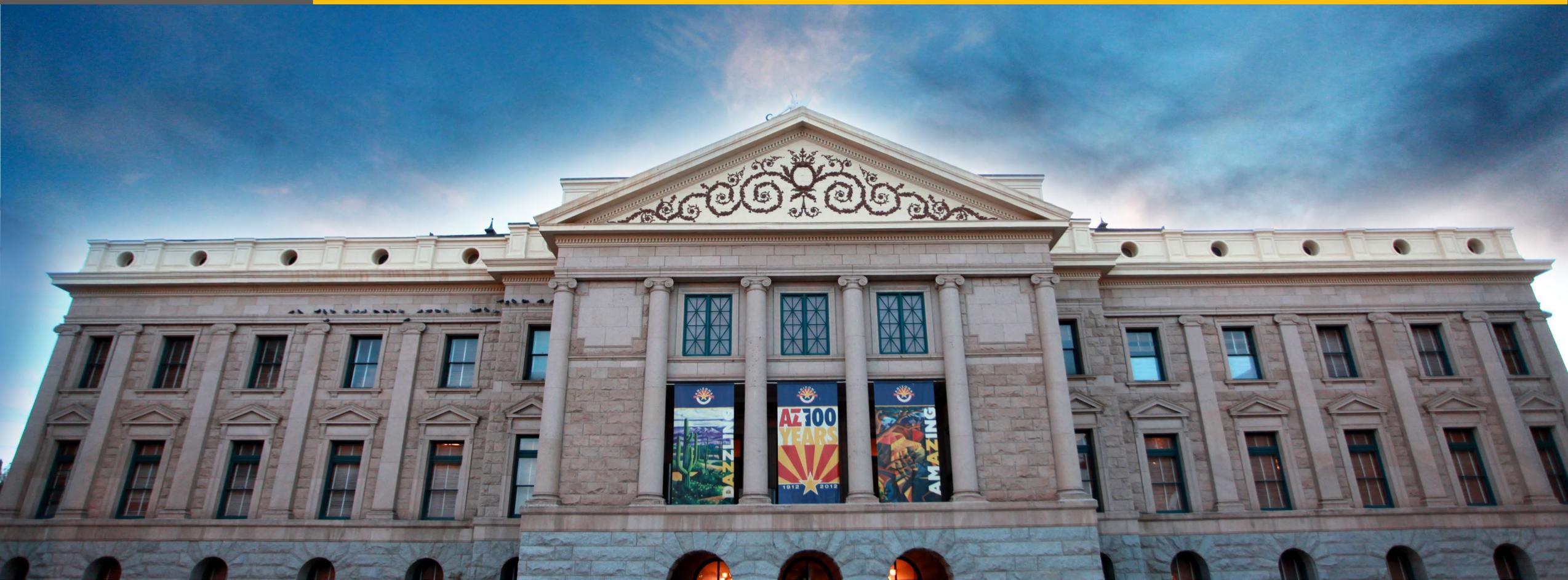
Haley Rahlf  
Government Relations Coordinator  
[Haley.Rahlf@goodyearaz.gov](mailto:Haley.Rahlf@goodyearaz.gov)





## Government Relations Update

# 2025 Federal & State Legislative Agendas



# What To Expect...

- I. Government Relations Overview
- II. 2024 Session Debrief
- III. Election Results Recap
- IV. Federal & State Agendas
- V. 2025 Legislative Issues
- VI. Q & A





# Government Relations Overview

## Federal, State, Regional & Local

*The mission of Government Relations is to advance and protect the interests of Goodyear residents as represented by the Mayor and City Council.*



	<h3>Advocate</h3>	
	<h3>Communicate</h3>	
	<h3>Coordinate</h3>	
	<h3>Engage</h3>	
	<h3>Strategize</h3>	



# 2024 Session Overview

## Bill Statistics

Introduced: 1,660

Signed: 259

Vetoed: 73

Tracked: 314

## Top Policy Issues

Housing/Zoning Reform

Water Management

Protecting Local Revenues

Sober Living Homes



# 2024 Election Results

*Goodyear Representation*

- New State Senator (U.S.)
- AZ Senate (17-13)
- AZ House (33-27)
- West Valley Leadership



Senator Ruben Gallego (D)



Senator Mark Kelly (D)



Congressman Raul Grijalva (D)



Congressman Paul Gosar (R)



# West Valley Leadership

## 57<sup>th</sup> Legislature

### House



Representative  
Steve Montenegro  
(LD29 - Goodyear)  
**Speaker**

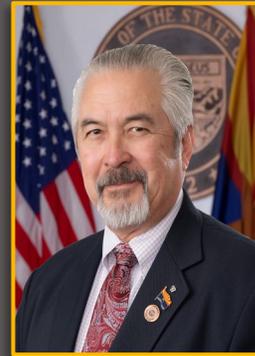


Representative  
Michael Carbone  
(LD25 - Goodyear)  
**Majority Leader**

### Senate



Senator  
Janae Shamp  
(LD29 - Goodyear)  
**Majority Leader**



Senator  
Frank Carroll  
(LD28 - Surprise)  
**Majority Whip**

## Republican

### House



Representative  
Quanta Crews  
(LD26 - Glendale)  
**Co-Minority Whip**

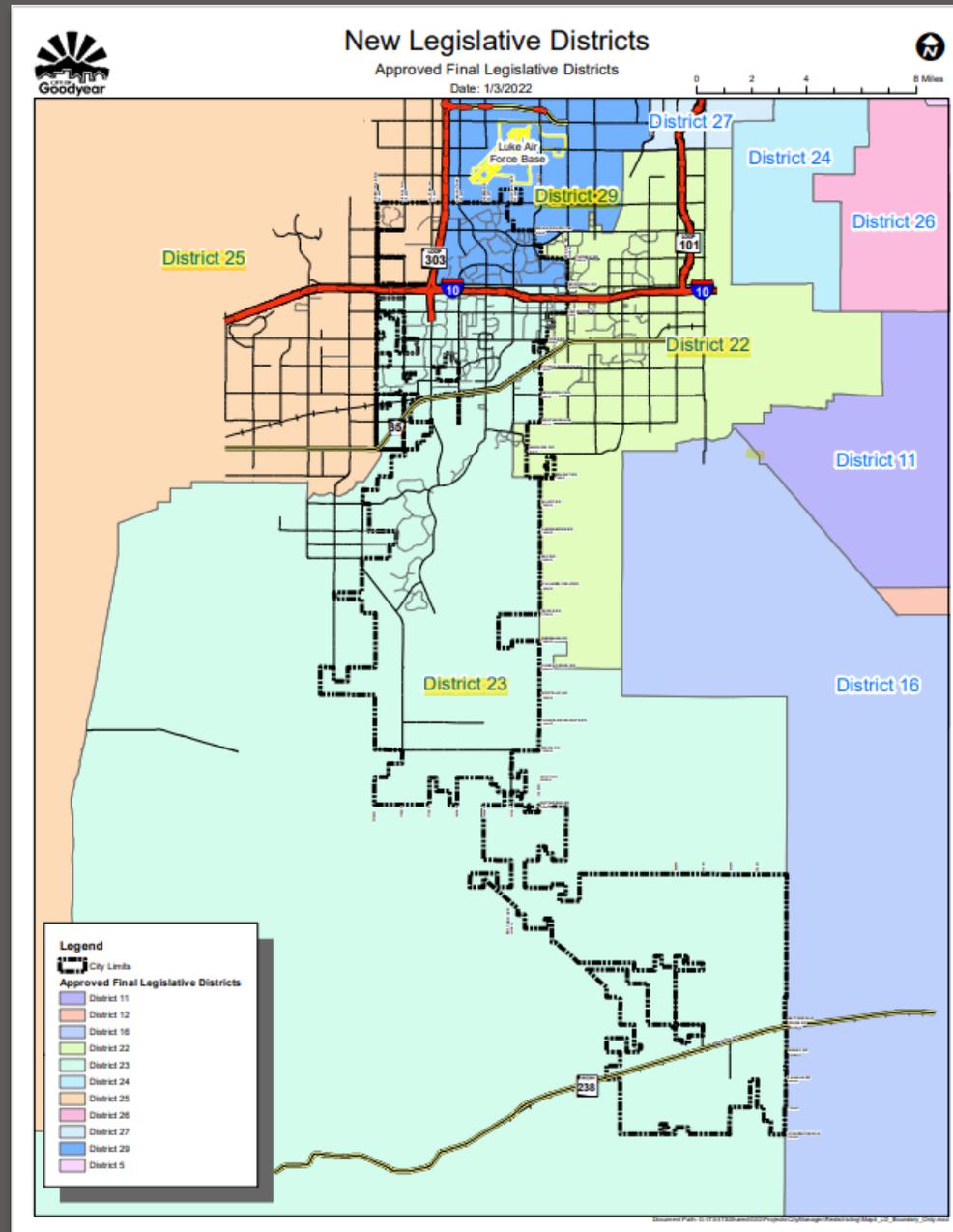
### Senate



Senator  
Flavio Bravo  
(LD26 - Glendale)  
**Co-Minority Leader**

## Democrat

# Goodyear Legislative Districts



- Comprised of four districts
- 12 Goodyear legislators
- Representation across the political spectrum



# Legislative District 22

*Southeast Goodyear*



Senator  
Eva Diaz (D)  
*Education; Federalism;  
Government*



Representative  
Lupe Contreras (D)  
*Judiciary; Rules*



Representative  
Elda Luna-Nájera (D)  
*Health and Human Services*



# Legislative District 23

South Goodyear



Senator  
Brian Fernandez (D)  
*Appropriations; Finance;  
Regulatory Affairs &  
Government Reform*



Representative  
Mariana Sandoval (D)  
*Appropriations; Land,  
Agriculture & Rural Affairs  
(Ranking Member)*



Representative  
Michele Peña (R)  
*International Trade (Vice-Chair);  
Land, Agriculture & Rural Affairs  
(Vice-Chair); Education*



# Legislative District 25

Northwest Goodyear



Senator Tim Dunn (R)  
*Natural Resources (Vice-Chair); Education; Military Affairs & Border Security*



Representative Michael Carbone (R)  
**Majority Leader**  
*International Trade; Rules*



Representative Nickolas Kupper (R)  
*Health & Human Services; Natural Resources, Energy & Water*



# Legislative District 29

North Goodyear



Senator Janae Shamp (R)

**Majority Leader**

*Military Affairs & Border Security (Vice-Chair); Rules (Vice-Chair); Health & Human Services; Natural Resources*



Representative  
Steve Montenegro (R)

**Speaker**

*Rules*



Representative  
James Taylor (R)

*Education;  
Public Safety & Law Enforcement*

# 2024 Ballot Measures

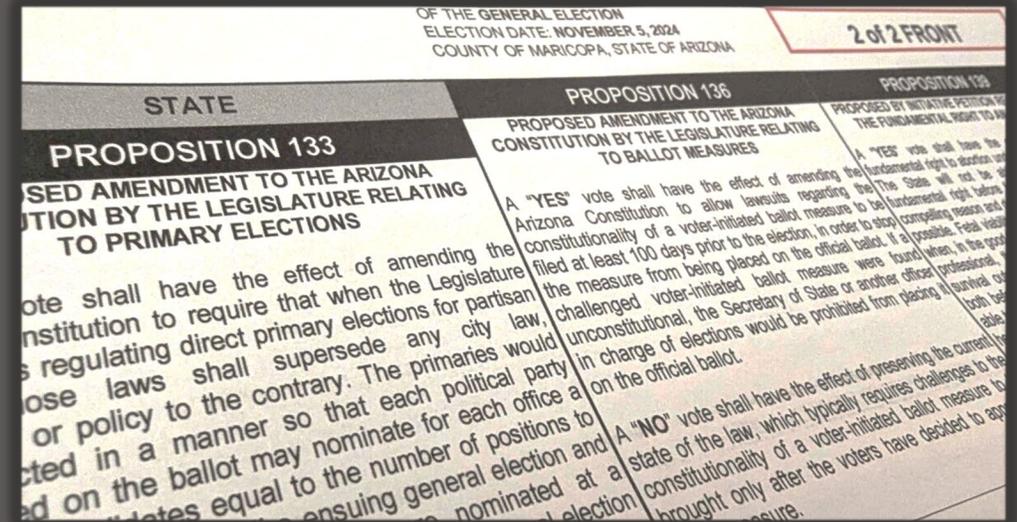
## Statewide

### Legislative Referrals – 11 Proposed (7 – 4):

- Prop 311 – *Financial Benefit Upon Death of a First Responder*
- Prop 312 – *Property Tax Refund for Non-Enforcement of Public Nuisance Laws*
- Prop 313 – *Life Imprisonment for Sex Trafficking of a Child Measure*
- Prop 314 – *Border Security Act*

### Citizen Initiatives – 2 Proposed (1 – 1):

- Prop 139 – *Abortion Access Act*



## Maricopa County

### Countywide Measures – 2 Proposed (0 – 2):

- Prop 479 – *Prop 400 Transportation Sales Tax Extension*
- Prop 486 – *Maricopa County Community College District Expenditure Limit Cap*



# Legislative Agenda

## Guiding Principles

- Safeguard** Goodyear's High Quality of Life
- Preserve** Local Authority & **Pursue** Local Funding
- Collaborate** to Build a Robust Transportation Network
- Protect** & Enhance Water Supply
- Protect** the Mission of Luke Air Force Base
- Promote** Economic Development & Prosperity
- Support** the Phoenix-Goodyear Airport





# 2025 Session Issues

57<sup>th</sup> Legislature, 1<sup>st</sup> Regular Session

**Advocate**

**Communicate**

**Coordinate**

**Engage**

**Strategize**



Protect Local Revenues

Housing & Zoning

Sober Living Homes

Goodyear League  
Resolution

# COMMUNITY ENGAGEMENT

LEAD Day at the Capitol

Quarterly Resident  
Newsletter

Legislative Action Alerts

Additional Thoughts?





# Questions?

Ginna Carico  
*Chief Government Affairs Officer*

Haley Rahlf  
*Government Relations Coordinator*

## Thank You!