

CLEARFIELD CITY COUNCIL AGENDA AND SUMMARY REPORT

May 28, 2024 - WORK SESSION

Meetings of the City Council of Clearfield City may be conducted via electronic means pursuant to Utah Code Ann. § 52-4-207 as amended. In such circumstances, contact will be established and maintained via electronic means and the meetings will be conducted pursuant to the Electronic Meetings Policy established by the City Council for electronic meetings.

55 South State Street Third Floor Clearfield, Utah

6:15 P.M. WORK SESSION

Discussion on the Bid Award for the 350 South Reconstruction Project

Training on the Open and Public Meeting Act and Review of Council Rules of Order

(Any item not fully addressed prior to the Policy Session will be addressed in a Work Session immediately following the Policy Session)

ADJOURN THE CITY COUNCIL WORK SESSION

Posted May 24, 2024.

/s/Chersty Titensor, Deputy City Recorder

The City of Clearfield, in accordance with the 'Americans with Disabilities Act' provides accommodations and auxiliary communicative aids and services for all those citizens needing assistance. Persons requesting these accommodations for City sponsored public meetings, service programs or events should call Nancy Dean at 801-525-2714, giving her 48-hour notice.

The complete public notice is posted on the Utah Public Notice Website - www.utah.gov/pmn/, the Clearfield City Website - clearfield.city, and at Clearfield City Hall, 55 South State Street, Clearfield, UT 84015. To request a copy of the public notice or for additional inquiries please contact Nancy R. Dean at Clearfield City, nancy.dean@clearfieldcity.org & 801-525-2714



STAFF REPORT

TO: Mayor Shepherd and City Council Members

FROM: Braden Felix, Assistant Public Works Director

MEETING DATE: May 28, 2024

SUBJECT: 350 South Reconstruction Contract with Ormond Construction

RECOMMENDED ACTION

Approve or deny the contract with Ormond Construction to reconstruct 350 South from Depot Street to State Street for \$1,474,856.89.

DESCRIPTION / BACKGROUND

Project #210, 350 South Reconstruction from Depot Street to State Street is a capital improvement project that has been is in our capital facilities plan and identified as a pavement replacement priority in previous analysis. After finishing design and property acquisition, we have received the low (and only) bid from Ormond Construction for \$1,474,856.89. The current total budget for this project is \$1,274,500. With contingencies, there is a shortfall of \$350,000.

Background and Efforts:

The utilities were installed around 1950 and the pavement has served much longer than it was intended. Recognizing the blight and financial liability of this road, we have been coordinating the design and property acquisition for this project for over a year. We will have spent over \$45,000 in property acquisition and \$58,000 in engineering. Thankfully, all the property has been acquired or is closing very soon (under contract). The design includes new curb and gutter on both sides of the road and a sidewalk on the north side.

The Lotus Anthem development just to the south is utilizing 350 South as one of their three accesses. As part of an agreement with Lotus, we're installing \$27,000 worth of improvements for their benefit for which they are paying us. That amount has been incorporated into our costs.

UDOT has indicated that they intend to add another set a tracks on the east side of the existing rail lines, meaning that we anticipate Depot Street to shift to the east about 30'. We've planned for this future alignment in our design and will be ready when they begin construction around 2027.

Costs and Options:

Staff met with Ormond construction shortly after receiving the bid to discuss any potential cost

savings through reductions in quantities, reductions in unit pricing, or altering the scope. The best opportunity is the reduction of trench import material that would depend on the suitability of the existing material under the road. It was discussed that we would keep that unit price and quantity in the contract (if approved), but if the native material is suitable, there would be an immediate cost savings not to exceed \$100,000. All other items were to remain at the same costs as bid. These are the options we have at this time:

1. Award the contract

We just entered into a contract with BE Excavating for the work on 975 South 1480 West that came in \$890,000 under budget (including contingency). This is with a contractor that we've never worked with previously, but we've been working with them to watch for any unforeseen costs. If we can do a budget amendment to help pay for 350 South, there would be a \$540,000 surplus between the two projects. Also, this 350 south project is impact fee eligible, with funding up to \$289,235 for water.

2. Put the project out to bid again

This is an option with risk. We could wait to build the project, anywhere between a few months or a few years. There could be better competition to bid in the fall or winter time, but with the trends of inflation, we certainly can't guarantee this would be a beneficial option.

CORRESPONDING POLICY PRIORITIES

- Improving Clearfield's Image, Livability, and Economy
- Providing Quality Municipal Services

This road is known for being in poor condition and the utilities have caused concern. With the attract development nearby, this would be a beautification investment from the city. The water and sewer lines will be brought up to current state code and avoid further problems.

HEDGEHOG SCORE

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FISCAL IMPACT

\$1,595,000 Total \$368,000 Streets \$418,000 Water \$484,000 Sewer \$325,000 Storm Drain

ALTERNATIVES

Put the project out to bid again

This is an option with risk. We could wait to build the project, anywhere between a few months or a few years. There could be better competition to bid in the fall or winter time, but with the trends of inflation, we certainly can't guarantee this would be a beneficial option.

Do Nothing

We would continue to address issues as they come, would not be ready for UDOT's efforts, and Lotus Anthem traffic would load a tired road.

SCHEDULE / TIME CONSTRAINTS

Ormond has indicated they could build the project in 2.5 months. They intend to have it paved before the fall.

LIST OF ATTACHMENTS

- Bid Tabulation
- 350 South Plan set

BID TABULATION

Clearfield City 350 South Reconstruction (Project #210)

Bid Opening: May 16, 2024 | 1:00 pm | Via Zoom

			ENGINEER'S ESTIMATE			Ormond Construction, Inc.			
Item	Description	Qty Unit	 Unit Price		Total		Unit Price		Total
1	Mobilization	1 ls	\$ 100,000.00	\$	100,000.00	\$	94,000.00	\$	94,000.00
2	UPDES Storm Water Compliance	1 ls	\$ 25,000.00	\$	25,000.00	\$	16,500.00	\$	16,500.00
3	Traffic Control	1 ls	\$ 20,000.00	\$	20,000.00	\$	16,500.00	\$	16,500.00
4	Exploratory Pothole	1 ea	\$ 300.00	\$	300.00	\$	1,800.00	\$	1,800.00
5	Remove 6" Clay Sewer Pipe	1,050 lf	\$ 75.00	\$	78,750.00	\$	5.00	\$	5,250.00
6	Remove Sewer Manhole	6 ea	\$ 4,500.00	\$	27,000.00	\$	3,250.00	\$	19,500.00
7	Plug Exist 6" PVC Sewer Pipe	4 ea	\$ 350.00	\$	1,400.00	\$	380.94	\$	1,523.76
8	Remove 12" PVC Storm Drain Pipe	190 lf	\$ 70.00	\$	13,300.00	\$	40.00	\$	7,600.00
9	Remove Storm Drain Structure	1 ea	\$ 7,000.00	\$	7,000.00	\$	1,500.00	\$	1,500.00
10	Plug 12" Storm Drain Pipe	1 ea	\$ 1,000.00	\$	1,000.00	\$	500.00	\$	500.00
11	Remove Exist 6" CIP Water Line	317 lf	\$ 50.00	\$	15,850.00	\$	40.00	\$	12,680.00
12	Abandon Water Valve	1 ea	\$ 350.00	\$	350.00	\$	250.00	\$	250.00
13	Remove Fire Hydrant	3 ea	\$ 900.00	\$	2,700.00	\$	1,917.72	\$	5,753.16
14	Remove Water Meter/Assembly	11 ea	\$ 4,500.00	\$	49,500.00	\$	920.00	\$	10,120.00
15	Plug Abandoned Water Line	1 ea	\$ 1,500.00	\$	1,500.00	\$	1,367.72	\$	1,367.72
16	Remove Meter Vault	1 ea	\$ 2,500.00	\$	2,500.00	\$	2,500.00	\$	2,500.00
17	Clear and Grub Site	0.75 ac	\$ 10,000.00	\$	7,500.00	\$	29,947.50	\$	22,460.63
18	Remove Exist Tree	4 ea	\$ 1,500.00	\$	6,000.00	\$	1,250.00	\$	5,000.00
19	Excavation	1 ls	\$ 35,000.00	\$	35,000.00	\$	71,374.89	\$	71,374.89
20	Saw Cut Asphalt	340 If	\$ 3.50	\$	1,190.00	\$	5.25	\$	1,785.00
21	Remove Asphalt	21,555 sf	\$ 3.00	\$	64,665.00	\$	2.25	\$	48,498.75
22	Remove Concrete Flatwork	760 sf	\$ 2.50	\$	1,900.00	\$	11.00	\$	8,360.00
23	Remove Curb and Gutter	225 If	\$ 15.00	\$	3,375.00	\$	16.00	\$	3,600.00
24	Remove Curb Wall	50 If	\$ 12.00	\$	600.00	\$	30.00	\$	1,500.00
25	Relocate Existing Sign	1 ea	\$ 350.00	\$	350.00	\$	450.00	\$	450.00
26	Relocated Existing Mailbox	4 ea	\$ 250.00	\$	1,000.00	\$	225.00	\$	900.00
27	Relocate Existing Fence	165 lf	\$ 50.00	\$	8,250.00	\$	62.50	\$	10,312.50
28	New 8" Sewer Pipe	1,045 lf	\$ 100.00	\$	104,500.00	\$	195.91	\$	204,725.95
29	New Sewer Manholes	6 ea	\$ 8,500.00	\$	51,000.00	\$	10,232.23	\$	61,393.38
30	Connect New MH to Exist Pipe	2 ea	\$ 3,500.00	\$	7,000.00	\$	1,692.61	\$	3,385.22
31	Connect New Pipe to Exist MH	1 ea	\$ 2,500.00	\$	2,500.00	\$	1,882.17	\$	1,882.17
32	Connect Exist Service Laterals	10 ea	\$ 3,200.00	\$	32,000.00	\$	1,320.57	\$	13,205.70

			ENGINEER'S ESTIMATE			Ormond Construction, Inc.				
Item	Description	Qty Unit		Unit Price		Total	ı	Unit Price		Total
33 B	Sypass Sewer Pumping	1 ls	\$	50,000.00	\$	50,000.00	\$	31,421.30	\$	31,421.30
34 C	Connect New Sewer to Exist Pipe	1 ea	\$	3,500.00	\$	3,500.00	\$	643.80	\$	643.80
35 N	New 15" Storm Drain Pipe	132 If	\$	90.00	\$	11,880.00	\$	145.17	\$	19,162.44
36 N	New Storm Drain Combo Box	1 ea	\$	2,000.00	\$	2,000.00	\$	9,131.10	\$	9,131.10
37 N	New Storm Drain Inlet Box	2 ea	\$	1,500.00	\$	3,000.00	\$	6,078.90	\$	12,157.80
38 C	Connect New Inlet to Exist Pipe	1 ea	\$	2,000.00	\$	2,000.00	\$	1,900.00	\$	1,900.00
39 C	Connect New Storm to Exist Pipe	2 ea	\$	2,500.00	\$	5,000.00	\$	1,054.40	\$	2,108.80
40 N	lew 8" Water Line	312 lf	\$	90.00	\$	28,080.00	\$	144.57	\$	45,105.84
41 N	lew 10" Water Line	797 If	\$	95.00	\$	75,715.00	\$	120.95	\$	96,397.15
42 C	Connect New Water to Exist Cast Iron w/ Reducer	2 ea	\$	2,500.00	\$	5,000.00	\$	3,777.93	\$	7,555.86
43 C	Connect New Water to Exist PVC	1 ea	\$	3,000.00	\$	3,000.00	\$	2,495.91	\$	2,495.91
44 N	New Water Line Loop	1 ea	\$	8,000.00	\$	8,000.00	\$	6,830.31	\$	6,830.31
45 N	New Water Service Line	11 ea	\$	1,500.00	\$	16,500.00	\$	2,962.88	\$	32,591.68
46 N	lew Water Valve	3 ea	\$	4,300.00	\$	12,900.00	\$	3,756.35	\$	11,269.05
47 N	lew Fire Hydrant w/ Aux Valve	3 ea	\$	10,000.00	\$	30,000.00	\$	10,490.06	\$	31,470.18
48 lı	mport Trench Material	3,500 ton	\$	20.00	\$	70,000.00	\$	30.95	\$	108,325.00
49 R	taise Manhole to Grade w/ Collar	7 ea	\$	1,500.00	\$	10,500.00	\$	650.00	\$	4,550.00
50 R	taise Valve to Grade w/ Collar	3 ea	\$	1,000.00	\$	3,000.00	\$	450.00	\$	1,350.00
51 0	Granular Borrow	1,000 ton	\$	25.00	\$	25,000.00	\$	30.20	\$	30,200.00
52 L	Intreated Base Course (UTBC)	2,500 ton	\$	35.00	\$	87,500.00	\$	31.87	\$	79,675.00
53 F	ot Mix Asphalt (HMA)	725 ton	\$	105.00	\$	76,125.00	\$	120.24	\$	87,174.00
54 N	New 4" Double Yellow Striping	475 lf	\$	1.00	\$	475.00	\$	4.89	\$	2,322.75
55 N	New 12" White Crosswalk Striping	64 If	\$	4.00	\$	256.00	\$	36.31	\$	2,323.84
56 N	New Concrete Curb and Gutter	1,272 lf	\$	45.00	\$	57,240.00	\$	63.00	\$	80,136.00
57 N	lew 4"Concrete Flatwork	2,580 sf	\$	10.00	\$	25,800.00	\$	18.00	\$	46,440.00
58 N	lew 6"Concrete Flatwork	1,260 sf	\$	15.00	\$	18,900.00	\$	20.00	\$	25,200.00
59 N	New Pedestrian Access Ramp	1 ea	\$	2,500.00	\$	2,500.00	\$	2,500.00	\$	2,500.00
60 N	New VERSA LOK Retaining Wall	140 sf	\$	110.00	\$	15,400.00	\$	65.00	\$	9,100.00
61 E	Electrical Pull Box	5 ea	\$	550.00	\$	2,750.00	\$	1,900.00	\$	9,500.00
62 N	New Streetlight (SL-1)	2 ea	\$	6,500.00	\$	13,000.00	\$	5,000.00	\$	10,000.00
62a N	New Streetlight (Cobra Head)	1 ea	\$	5,000.00	\$	5,000.00	\$	4,000.00	\$	4,000.00
63 N	New 2" Electrical Conduit	175 lf	\$	20.00	\$	3,500.00	\$	32.23	\$	5,640.25
		TOTAL BASE BID	\$		1,3	346,501.00	\$		1,4	474,856.89

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Chapter 4 Open and Public Meetings Act

Part 1 General Provisions

52-4-101 Title.

This chapter is known as the "Open and Public Meetings Act."

Enacted by Chapter 14, 2006 General Session

52-4-102 Declaration of public policy.

- (1) The Legislature finds and declares that the state, its agencies and political subdivisions, exist to aid in the conduct of the people's business.
- (2) It is the intent of the Legislature that the state, its agencies, and its political subdivisions:
 - (a) take their actions openly; and
 - (b) conduct their deliberations openly.

Renumbered and Amended by Chapter 14, 2006 General Session

52-4-103 Definitions.

As used in this chapter:

- (1) "Anchor location" means:
 - (a) the physical location where the public body conducting an electronic meeting under Section 52-4-207 normally conducts meetings of the public body; or
 - (b) a location other than the location described in Subsection (1)(a) that is reasonably as accessible to the public as the location described in Subsection (1)(a).
- (2) "Capitol hill complex" means the grounds and buildings within the area bounded by 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard in Salt Lake City.
- (3) "Electronic meeting" means a meeting that some or all public body members attend through an electronic video, audio, or both video and audio connection, as provided in Section 52-4-207.
- (4) "Fiduciary or commercial information" means information:
 - (a) related to any subject if disclosure:
 - (i) would conflict with a fiduciary obligation; or
 - (ii) is prohibited by insider trading provisions; or
 - (b) that is commercial in nature including:
 - (i) account owners or borrowers;
 - (ii) demographic data;
 - (iii) contracts and related payments;
 - (iv) negotiations;
 - (v) proposals or bids;
 - (vi) investments;
 - (vii) management of funds;
 - (viii) fees and charges;
 - (ix) plan and program design;
 - (x) investment options and underlying investments offered to account owners;
 - (xi) marketing and outreach efforts;

- (xii) financial plans; or
- (xiii) reviews and audits excluding the final report required under Section 53B-8a-111.
- (5) "Meeting" means a gathering:
 - (a) of a public body or specified body;
 - (b) with a quorum present; and
 - (c) that is convened:
 - (i) by an individual:
 - (A) with authority to convene the public body or specified body; and
 - (B) following the process provided by law for convening the public body or specified body; and
 - (ii) for the express purpose of acting as a public body or specified body to:
 - (A) receive public comment about a relevant matter;
 - (B) deliberate about a relevant matter; or
 - (C) take action upon a relevant matter.
- (6) "Participate" means the ability to communicate with all of the members of a public body, either verbally or electronically, so that each member of the public body can hear or observe the communication.

(7)

- (a) "Public body" means:
 - (i) any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:
 - (A) is created by the Utah Constitution, statute, rule, ordinance, or resolution;
 - (B) consists of two or more individuals;
 - (C) expends, disburses, or is supported in whole or in part by tax revenue; and
 - (D) is vested with the authority to make decisions regarding the public's business; or
 - (ii) any administrative, advisory, executive, or policymaking body of an association, as that term is defined in Section 53G-7-1101, that:
 - (A) consists of two or more individuals;
 - (B) expends, disburses, or is supported in whole or in part by dues paid by a public school or whose employees participate in a benefit or program described in Title 49, Utah State Retirement and Insurance Benefit Act; and
 - (C) is vested with authority to make decisions regarding the participation of a public school or student in an interscholastic activity, as that term is defined in Section 53G-7-1101.
- (b) "Public body" includes:
 - (i) an interlocal entity or joint or cooperative undertaking, as those terms are defined in Section 11-13-103, except for the Water District Water Development Council created pursuant to Section 11-13-228:
 - (ii) a governmental nonprofit corporation as that term is defined in Section 11-13a-102;
 - (iii) the Utah Independent Redistricting Commission; and
 - (iv) a project entity, as that term is defined in Section 11-13-103.
- (c) "Public body" does not include:
 - (i) a political party, a political group, or a political caucus;
 - (ii) a conference committee, a rules committee, a sifting committee, or an administrative staff committee of the Legislature;
 - (iii) a school community council or charter trust land council, as that term is defined in Section 53G-7-1203:
 - (iv) a taxed interlocal entity, as that term is defined in Section 11-13-602, if the taxed interlocal entity is not a project entity; or

- (v) the following Legislative Management subcommittees, which are established in Section 36-12-8, when meeting for the purpose of selecting or evaluating a candidate to recommend for employment, except that the meeting in which a subcommittee votes to recommend that a candidate be employed shall be subject to the provisions of this act:
 - (A) the Research and General Counsel Subcommittee;
 - (B) the Budget Subcommittee; and
 - (C) the Audit Subcommittee.
- (8) "Public statement" means a statement made in the ordinary course of business of the public body with the intent that all other members of the public body receive it.
- (9) "Quorum" means a simple majority of the membership of a public body, unless otherwise defined by applicable law.
- (10) "Recording" means an audio, or an audio and video, record of the proceedings of a meeting that can be used to review the proceedings of the meeting.

(11)

- (a) "Relevant matter" means a matter that is within the scope of the authority of a public body or specified body.
- (b) "Relevant matter" does not include, for a public body with both executive and legislative responsibilities, a managerial or operational matter.
- (12) "Specified body":
 - (a) means an administrative, advisory, executive, or legislative body that:
 - (i) is not a public body;
 - (ii) consists of three or more members; and
 - (iii) includes at least one member who is:
 - (A) a legislator; and
 - (B) officially appointed to the body by the president of the Senate, speaker of the House of Representatives, or governor; and
 - (b) does not include a body listed in Subsection (7)(c)(ii) or (7)(c)(v).

Amended by Chapter 392, 2024 General Session Amended by Chapter 522, 2024 General Session

52-4-104 Training.

- (1) The presiding officer of the public body shall ensure that the members of the public body are provided with annual training on the requirements of this chapter.
- (2) The presiding officer shall ensure that any training described in Subsection (1) complies with Title 63G, Chapter 22, State Training and Certification Requirements.

Amended by Chapter 200, 2018 General Session

Part 2 Meetings

52-4-201 Meetings open to the public -- Exceptions.

- (1) A meeting is open to the public unless:
 - (a) closed under Sections 52-4-204, 52-4-205, and 52-4-206; or

(b) the meeting is solely for the School Activity Eligibility Commission, described in Section 53G-6-1003, if the commission is in effect in accordance with Section 53G-6-1002, to consider, discuss, or determine, in accordance with Section 53G-6-1004, an individual student's eligibility to participate in an interscholastic activity, as that term is defined in Section 53G-6-1001, including the commission's determinative vote on the student's eligibility.

(2)

- (a) A meeting that is open to the public includes a workshop or an executive session of a public body in which a quorum is present, unless closed in accordance with this chapter.
- (b) A workshop or an executive session of a public body in which a quorum is present that is held on the same day as a regularly scheduled public meeting of the public body may only be held at the location where the public body is holding the regularly scheduled public meeting unless:
 - (i) the workshop or executive session is held at the location where the public body holds its regularly scheduled public meetings but, for that day, the regularly scheduled public meeting is being held at different location;
 - (ii) any of the meetings held on the same day is a site visit or a traveling tour and, in accordance with this chapter, public notice is given;
 - (iii) the workshop or executive session is an electronic meeting conducted according to the requirements of Section 52-4-207; or
 - (iv) it is not practicable to conduct the workshop or executive session at the regular location of the public body's open meetings due to an emergency or extraordinary circumstances.

Amended by Chapter 524, 2024 General Session

52-4-201.3 Local school boards -- Public comment.

(1) As used in this section, "local school board" means a board elected under Title 20A, Chapter 14, Part 2, Election of Members of Local Boards of Education.

(2)

- (a) A local school board holding a meeting that is open to the public under Section 52-4-201 shall allow a reasonable opportunity for the public to provide verbal comments that are germane to the authority of the local school board.
- (b) Subsection (2)(a) does not apply to a meeting that is:
 - (i) a work session; or
 - (ii) an emergency meeting as described in Subsection 52-4-202(5).
- (3) No later than July 1, 2023, a local school board shall adopt a written policy that provides a reasonable opportunity for the public to provide both verbal and written comments in a meeting of the local school board that:
 - (a) is open to the public; and
 - (b) is not a meeting described in Subsection (2)(b).
- (4) The written policy described in Subsection (3) may limit public verbal and written comments to topics that are germane to the authority of the local school board.

Enacted by Chapter 100, 2023 General Session

52-4-202 Public notice of meetings -- Emergency meetings.

(1)

(a)

(i) A public body shall give not less than 24 hours' public notice of each meeting.

- (ii) A specified body shall give not less than 24 hours' public notice of each meeting that the specified body holds on the capitol hill complex.
- (b) The public notice required under Subsection (1)(a) shall include the meeting:
 - (i) agenda;
 - (ii) date;
 - (iii) time; and
 - (iv) place.

(2)

- (a) In addition to the requirements under Subsection (1), a public body which holds regular meetings that are scheduled in advance over the course of a year shall give public notice at least once each year of its annual meeting schedule as provided in this section.
- (b) The public notice under Subsection (2)(a) shall specify the date, time, and place of the scheduled meetings.

(3)

- (a) Subject to Subsection (3)(c), a public body or specified body satisfies a requirement for public notice by publishing the notice for the public body's jurisdiction, as a class A notice under Section 63G-30-102, for at least 24 hours.
- (b) A public body whose limited resources make compliance with the requirement to post notice on the Utah Public Notice Website difficult may request the Division of Archives and Records Service, created in Section 63A-12-101, to provide technical assistance to help the public body in its effort to comply.
- (c) A public body or specified body that is required, under this chapter and Section 63G-30-102, to post notice in a public location within the affected area may comply with the requirement by posting the notice in, on, or near:
 - (i) the anchor location for the meeting; or
 - (ii) the structure or other area where the meeting will be held.
- (4) A public body and a specified body are encouraged to develop and use additional electronic means to provide notice of their meetings under Subsection (3).

(5)

- (a) The notice requirement of Subsection (1) may be disregarded if:
 - (i) because of unforeseen circumstances it is necessary for a public body or specified body to hold an emergency meeting to consider matters of an emergency or urgent nature; and
 - (ii) the public body or specified body gives the best notice practicable of:
 - (A) the time and place of the emergency meeting; and
 - (B) the topics to be considered at the emergency meeting.
- (b) An emergency meeting of a public body may not be held unless:
 - (i) an attempt has been made to notify all the members of the public body; and
 - (ii) a majority of the members of the public body approve the meeting.

(6)

- (a) A public notice that is required to include an agenda under Subsection (1) shall provide reasonable specificity to notify the public as to the topics to be considered at the meeting. Each topic shall be listed under an agenda item on the meeting agenda.
- (b) Subject to the provisions of Subsection (6)(c), and at the discretion of the presiding member of the public body, a topic raised by the public may be discussed during an open meeting, even if the topic raised by the public was not included in the agenda or advance public notice for the meeting.
- (c) Except as provided in Subsection (5), relating to emergency meetings, a public body may not take final action on a topic in an open meeting unless the topic is:

- (i) listed under an agenda item as required by Subsection (6)(a); and
- (ii) included with the advance public notice required by this section.
- (7) Except as provided in this section, this chapter does not apply to a specified body.

Amended by Chapter 100, 2023 General Session Amended by Chapter 435, 2023 General Session

52-4-203 Written minutes of open meetings -- Public records -- Recording of meetings.

(1) Except as provided under Subsection (7), written minutes and a recording shall be kept of all open meetings.

(2)

- (a) Written minutes of an open meeting shall include:
 - (i) the date, time, and place of the meeting;
 - (ii) the names of members present and absent;
 - (iii) the substance of all matters proposed, discussed, or decided by the public body which may include a summary of comments made by members of the public body;
 - (iv) a record, by individual member, of each vote taken by the public body;
 - (v) the name of each person who:
 - (A) is not a member of the public body; and
 - (B) after being recognized by the presiding member of the public body, provided testimony or comments to the public body;
 - (vi) the substance, in brief, of the testimony or comments provided by the public under Subsection (2)(a)(v); and
 - (vii) any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes or recording.
- (b) A public body may satisfy the requirement under Subsection (2)(a)(iii) or (vi) that minutes include the substance of matters proposed, discussed, or decided or the substance of testimony or comments by maintaining a publicly available online version of the minutes that provides a link to the meeting recording at the place in the recording where the matter is proposed, discussed, or decided or the testimony or comments provided.
- (c) A public body that has members who were elected to the public body shall satisfy the requirement described in Subsection (2)(a)(iv) by recording each vote:
 - (i) in list format;
 - (ii) by category for each action taken by a member, including yes votes, no votes, and absent members; and
 - (iii) by each member's name.
- (3) A recording of an open meeting shall:
 - (a) be a complete and unedited record of all open portions of the meeting from the commencement of the meeting through adjournment of the meeting; and
 - (b) be properly labeled or identified with the date, time, and place of the meeting.

(4)

- (a) As used in this Subsection (4):
 - (i) "Approved minutes" means written minutes:
 - (A) of an open meeting; and
 - (B) that have been approved by the public body that held the open meeting.
 - (ii) "Electronic information" means information presented or provided in an electronic format.
 - (iii) "Pending minutes" means written minutes:
 - (A) of an open meeting; and

- (B) that have been prepared in draft form and are subject to change before being approved by the public body that held the open meeting.
- (iv) "Specified local public body" means a legislative body of a county, city, or town.
- (v) "State public body" means a public body that is an administrative, advisory, executive, or legislative body of the state.
- (vi) "State website" means the Utah Public Notice Website created under Section 63A-16-601.
- (b) Pending minutes, approved minutes, and a recording of a public meeting are public records under Title 63G, Chapter 2, Government Records Access and Management Act.
- (c) Pending minutes shall contain a clear indication that the public body has not yet approved the minutes or that the minutes are subject to change until the public body approves them.
- (d) A public body shall require an individual who, at an open meeting of the public body, publicly presents or provides electronic information, relating to an item on the public body's meeting agenda, to provide the public body, at the time of the meeting, an electronic or hard copy of the electronic information for inclusion in the public record.
- (e) A state public body shall:
 - (i) make pending minutes available to the public within 30 days after holding the open meeting that is the subject of the pending minutes;
 - (ii) within three business days after approving written minutes of an open meeting:
 - (A) post to the state website a copy of the approved minutes and any public materials distributed at the meeting;
 - (B) make the approved minutes and public materials available to the public at the public body's primary office; and
 - (C) if the public body provides online minutes under Subsection (2)(b), post approved minutes that comply with Subsection (2)(b) and the public materials on the public body's website; and
 - (iii) within three business days after holding an open meeting, post on the state website an audio recording of the open meeting, or a link to the recording.
- (f) A specified local public body shall:
 - (i) make pending minutes available to the public within 30 days after holding the open meeting that is the subject of the pending minutes;
 - (ii) within three business days after approving written minutes of an open meeting, post and make available a copy of the approved minutes and any public materials distributed at the meeting, as provided in Subsection (4)(e)(ii); and
 - (iii) within three business days after holding an open meeting, make an audio recording of the open meeting available to the public for listening.
- (g) A public body that is not a state public body or a specified local public body shall:
 - (i) make pending minutes available to the public within a reasonable time after holding the open meeting that is the subject of the pending minutes;
 - (ii) within three business days after approving written minutes of an open meeting:
 - (A) post and make available a copy of the approved minutes and any public materials distributed at the meeting, as provided in Subsection (4)(e)(ii); or
 - (B) comply with Subsections (4)(e)(ii)(B) and (C) and post to the state website a link to a website on which the approved minutes and any public materials distributed at the meeting are posted; and
 - (iii) within three business days after holding an open meeting, make an audio recording of the open meeting available to the public for listening.
- (h) A public body shall establish and implement procedures for the public body's approval of the written minutes of each meeting.

- (i) Approved minutes of an open meeting are the official record of the meeting.
- (5) All or any part of an open meeting may be independently recorded by any person in attendance if the recording does not interfere with the conduct of the meeting.
- (6) The written minutes or recording of an open meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.
- (7) Notwithstanding Subsection (1), a recording is not required to be kept of:
 - (a) an open meeting that is a site visit or a traveling tour, if no vote or action is taken by the public body; or
 - (b) an open meeting of a special district under Title 17B, Limited Purpose Local Government Entities Special Districts, or special service district under Title 17D, Chapter 1, Special Service District Act, if the district's annual budgeted expenditures for all funds, excluding capital expenditures and debt service, are \$50,000 or less.

Amended by Chapter 438, 2024 General Session

52-4-204 Closed meeting held upon vote of members -- Business -- Reasons for meeting recorded.

- (1) A closed meeting may be held if:
 - (a)
 - (i) a quorum is present;
 - (ii) the meeting is an open meeting for which notice has been given under Section 52-4-202; and
 - (iii)
 - (A) two-thirds of the members of the public body present at the open meeting vote to approve closing the meeting;
 - (B) for a meeting that is required to be closed under Section 52-4-205, if a majority of the members of the public body present at an open meeting vote to approve closing the meeting;
 - (C) for an ethics committee of the Legislature that is conducting an open meeting for the purpose of reviewing an ethics complaint, a majority of the members present vote to approve closing the meeting for the purpose of seeking or obtaining legal advice on legal, evidentiary, or procedural matters, or for conducting deliberations to reach a decision on the complaint;
 - (D) for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201 that is conducting an open meeting for the purpose of reviewing an ethics complaint in accordance with Section 63A-15-701, a majority of the members present vote to approve closing the meeting for the purpose of seeking or obtaining legal advice on legal, evidentiary, or procedural matters, or for conducting deliberations to reach a decision on the complaint;
 - (E) for a project entity that is conducting an open meeting for the purposes of determining the value of an asset, developing a strategy related to the sale or use of that asset;
 - (F) for a project entity that is conducting an open meeting for purposes of discussing a business decision, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, the project entity; or
 - (G) for a project entity that is conducting an open meeting for purposes of discussing a record, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential competitor of, the project entity; or

(b)

- (i) for the Independent Legislative Ethics Commission, the closed meeting is held for the purpose of conducting business relating to the receipt or review of an ethics complaint, if public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to the receipt or review of ethics complaints";
- (ii) for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201, the closed meeting is held for the purpose of conducting business relating to the preliminary review of an ethics complaint in accordance with Section 63A-15-602, if public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to the review of ethics complaints"; or
- (iii) for the Independent Executive Branch Ethics Commission created in Section 63A-14-202, the closed meeting is held for the purpose of conducting business relating to an ethics complaint, if public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to an ethics complaint."
- (2) A closed meeting is not allowed unless each matter discussed in the closed meeting is permitted under Section 52-4-205.

(3)

(a) An ordinance, resolution, rule, regulation, contract, or appointment may not be approved at a closed meeting.

(b)

- (i) A public body may not take a vote in a closed meeting, except for a vote on a motion to end the closed portion of the meeting and return to an open meeting.
- (ii) A motion to end the closed portion of a meeting may be approved by a majority of the public body members present at the meeting.
- (4) The following information shall be publicly announced and entered on the minutes of the open meeting at which the closed meeting was approved:
 - (a) the reason or reasons for holding the closed meeting;
 - (b) the location where the closed meeting will be held; and
 - (c) the vote by name, of each member of the public body, either for or against the motion to hold the closed meeting.
- (5) Except as provided in Subsection 52-4-205(2), nothing in this chapter shall be construed to require any meeting to be closed to the public.

Amended by Chapter 381, 2024 General Session Amended by Chapter 392, 2024 General Session

52-4-205 Purposes of closed meetings -- Certain issues prohibited in closed meetings.

- (1) A closed meeting described under Section 52-4-204 may only be held for:
 - (a) except as provided in Subsection (3), discussion of the character, professional competence, or physical or mental health of an individual;
 - (b) strategy sessions to discuss collective bargaining;
 - (c) strategy sessions to discuss pending or reasonably imminent litigation;
 - (d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, or to discuss a proposed development agreement,

- project proposal, or financing proposal related to the development of land owned by the state, if public discussion would:
- (i) disclose the appraisal or estimated value of the property under consideration; or
- (ii) prevent the public body from completing the transaction on the best possible terms;
- (e) strategy sessions to discuss the sale of real property, including any form of a water right or water shares, if:
 - (i) public discussion of the transaction would:
 - (A) disclose the appraisal or estimated value of the property under consideration; or
 - (B) prevent the public body from completing the transaction on the best possible terms;
 - (ii) the public body previously gave public notice that the property would be offered for sale; and
 - (iii) the terms of the sale are publicly disclosed before the public body approves the sale;
- (f) discussion regarding deployment of security personnel, devices, or systems;
- (g) investigative proceedings regarding allegations of criminal misconduct;
- (h) as relates to the Independent Legislative Ethics Commission, conducting business relating to the receipt or review of ethics complaints;
- (i) as relates to an ethics committee of the Legislature, a purpose permitted under Subsection 52-4-204(1)(a)(iii)(C);
- (j) as relates to the Independent Executive Branch Ethics Commission created in Section 63A-14-202, conducting business relating to an ethics complaint;
- (k) as relates to a county legislative body, discussing commercial information as defined in Section 59-1-404:
- (I) as relates to the Utah Higher Education Savings Board of Trustees and its appointed board of directors, discussing fiduciary or commercial information;
- (m) deliberations, not including any information gathering activities, of a public body acting in the capacity of:
 - (i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code, during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;
 - (ii) a protest officer, defined in Section 63G-6a-103, during the process of making a decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or
 - (iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17, Procurement Appeals Board;
- (n) the purpose of considering information that is designated as a trade secret, as defined in Section 13-24-2, if the public body's consideration of the information is necessary to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;
- (o) the purpose of discussing information provided to the public body during the procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of the meeting:
 - (i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be disclosed to a member of the public or to a participant in the procurement process; and
 - (ii) the public body needs to review or discuss the information to properly fulfill its role and responsibilities in the procurement process;
- (p) as relates to the governing board of a governmental nonprofit corporation, as that term is defined in Section 11-13a-102, the purpose of discussing information that is designated as a trade secret, as that term is defined in Section 13-24-2, if:
 - (i) public knowledge of the discussion would reasonably be expected to result in injury to the owner of the trade secret; and
 - (ii) discussion of the information is necessary for the governing board to properly discharge the board's duties and conduct the board's business:

- (q) as it relates to the Cannabis Production Establishment Licensing Advisory Board, to review confidential information regarding violations and security requirements in relation to the operation of cannabis production establishments;
- (r) considering a loan application, if public discussion of the loan application would disclose:
 - (i) nonpublic personal financial information; or
 - (ii) a nonpublic trade secret, as defined in Section 13-24-2, or nonpublic business financial information the disclosure of which would reasonably be expected to result in unfair competitive injury to the person submitting the information;
- (s) a discussion of the board of the Point of the Mountain State Land Authority, created in Section 11-59-201, regarding a potential tenant of point of the mountain state land, as defined in Section 11-59-102; or
- (t) a purpose for which a meeting is required to be closed under Subsection (2).
- (2) The following meetings shall be closed:
 - (a) a meeting of the Health and Human Services Interim Committee to review a report described in Subsection 26B-1-506(1)(a), and a response to the report described in Subsection 26B-1-506(2):
 - (b) a meeting of the Child Welfare Legislative Oversight Panel to:
 - (i) review a report described in Subsection 26B-1-506(1)(a), and a response to the report described in Subsection 26B-1-506(2); or
 - (ii) review and discuss an individual case, as described in Subsection 36-33-103(2);
 - (c) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose of advising the Natural Resource Conservation Service of the United States Department of Agriculture on a farm improvement project if the discussed information is protected information under federal law;
 - (d) a meeting of the Compassionate Use Board established in Section 26B-1-421 for the purpose of reviewing petitions for a medical cannabis card in accordance with Section 26B-1-421;
 - (e) a meeting of the Colorado River Authority of Utah if:
 - (i) the purpose of the meeting is to discuss an interstate claim to the use of the water in the Colorado River system; and
 - (ii) failing to close the meeting would:
 - (A) reveal the contents of a record classified as protected under Subsection 63G-2-305(81);
 - (B) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;
 - (C) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or
 - (D) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system;
 - (f) a meeting of the General Regulatory Sandbox Program Advisory Committee if:
 - (i) the purpose of the meeting is to discuss an application for participation in the regulatory sandbox as defined in Section 63N-16-102; and
 - (ii) failing to close the meeting would reveal the contents of a record classified as protected under Subsection 63G-2-305(82); and
 - (g) a meeting of a project entity if:
 - (i) the purpose of the meeting is to conduct a strategy session to discuss market conditions relevant to a business decision regarding the value of a project entity asset if the terms of the business decision are publicly disclosed before the decision is finalized and a public discussion would:

- (A) disclose the appraisal or estimated value of the project entity asset under consideration; or
- (B) prevent the project entity from completing on the best possible terms a contemplated transaction concerning the project entity asset;
- (ii) the purpose of the meeting is to discuss a record, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, the project entity;
- (iii) the purpose of the meeting is to discuss a business decision, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, the project entity; or
- (iv) failing to close the meeting would prevent the project entity from getting the best price on the market.
- (3) In a closed meeting, a public body may not:
 - (a) interview a person applying to fill an elected position;
 - (b) discuss filling a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office; or
 - (c) discuss the character, professional competence, or physical or mental health of the person whose name was submitted for consideration to fill a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office.

Amended by Chapter 135, 2024 General Session

Amended by Chapter 288, 2024 General Session

Amended by Chapter 506, 2024 General Session

Amended by Chapter 524, 2024 General Session

52-4-206 Record of closed meetings.

- (1) Except as provided under Subsection (6), if a public body closes a meeting under Subsection 52-4-205(1), the public body:
 - (a) shall make a recording of the closed portion of the meeting; and
 - (b) may keep detailed written minutes that disclose the content of the closed portion of the meeting.
- (2) A recording of a closed meeting shall be complete and unedited from the commencement of the closed meeting through adjournment of the closed meeting.
- (3) The recording and any minutes of a closed meeting shall include:
 - (a) the date, time, and place of the meeting;
 - (b) the names of members present and absent; and
 - (c) the names of all others present except where the disclosure would infringe on the confidentiality necessary to fulfill the original purpose of closing the meeting.
- (4) Minutes or recordings of a closed meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.
- (5) A recording, transcript, report, and written minutes of a closed meeting are protected records under Title 63G, Chapter 2, Government Records Access and Management Act, except that the records:
 - (a) may be disclosed under a court order only as provided under Section 52-4-304; and
 - (b) shall be disclosed, upon request, to the Office of the Legislative Auditor General under Section 36-12-15.

- (6) If a public body closes a meeting exclusively for the purposes described under Subsection 52-4-205(1)(a), (1)(f), or (2):
 - (a) the person presiding shall sign a sworn statement affirming that the sole purpose for closing the meeting was to discuss the purposes described under Subsection 52-4-205(1)(a),(1)(f), or (2); and
 - (b) the provisions of Subsection (1) of this section do not apply.

Amended by Chapter 21, 2023 General Session

52-4-207 Electronic meetings -- Authorization -- Requirements.

(1) Except as otherwise provided for a charter school in Section 52-4-209, a public body may conduct a meeting that some or all members of the public body attend through an electronic video, audio, or both video and audio connection, in accordance with this section.

(2)

- (a) A public body may not hold an electronic meeting unless the public body has adopted a resolution, rule, or ordinance governing the use of electronic meetings.
- (b) A resolution, rule, or ordinance described in Subsection (2)(a) that governs an electronic meeting shall establish the conditions under which a remote member is included in calculating a quorum.
- (c) A resolution, rule, or ordinance described in Subsection (2)(a) may:
 - (i) prohibit or limit electronic meetings based on budget, public policy, or logistical considerations;
 - (ii) require a quorum of the public body to:
 - (A) be present at a single anchor location for the meeting; and
 - (B) vote to approve establishment of an electronic meeting in order to include other members of the public body through an electronic video, audio, or both video and audio connection;
 - (iii) require a request for an electronic meeting to be made by a member of a public body up to three days prior to the meeting to allow for arrangements to be made for the electronic meeting;
 - (iv) restrict the number of separate connections for members of the public body that are allowed for an electronic meeting based on available equipment capability;
 - (v) if the public body is statutorily authorized to allow a member of the public body to act by proxy, establish the conditions under which a member may vote or take other action by proxy;
 - (vi) provide a procedure for recording votes of members, including defining circumstances under which a roll call vote is required; or
 - (vii) establish other procedures, limitations, or conditions governing electronic meetings not in conflict with this section.
- (3) A public body that conducts an electronic meeting shall:
 - (a) give public notice of the electronic meeting in accordance with Section 52-4-202; and
 - (b) except as otherwise provided in a rule of the Legislature applicable to the public body, at least 24 hours before the electronic meeting is scheduled to begin, provide each member of the public body a description of how to connect to the meeting.

(4)

(a) Except as provided in Subsection (5), a public body that conducts an electronic meeting shall provide space and facilities at an anchor location for members of the public to attend the open portions of the meeting.

- (b) A public body that conducts an electronic meeting may provide means by which members of the public may participate remotely by electronic means.
- (5) Subsection (4)(a) does not apply to an electronic meeting if:

(a)

- (i) the chair of the public body determines that:
 - (A) conducting the meeting as provided in Subsection (4)(a) presents a substantial risk to the health or safety of those present or who would otherwise be present at the anchor location; or
 - (B) the location where the public body would normally meet has been ordered closed to the public for health or safety reasons; and
- (ii) the public notice for the meeting includes:
 - (A) a statement describing the chair's determination under Subsection (5)(a)(i);
 - (B) a summary of the facts upon which the chair's determination is based; and
 - (C) information on how a member of the public may participate in the meeting remotely by electronic means;

(b)

- (i) during the course of the electronic meeting, the chair:
 - (A) determines that continuing to conduct the electronic meeting as provided in Subsection (4)(a) presents a substantial risk to the health or safety of those present at the anchor location; and
 - (B) announces during the electronic meeting the chair's determination under Subsection (5)(b) (i)(A) and states a summary of the facts upon which the determination is made; and
- (ii) in conducting the electronic meeting, the public body has provided means by which members of the public who are not physically present at the anchor location may participate in the electronic meeting remotely by electronic means;

(c)

- (i) the public body is a special district board of trustees established under Title 17B, Chapter 1, Part 3, Board of Trustees;
- (ii) the board of trustees' membership consists of:
 - (A) at least two members who are elected or appointed to the board as owners of land, or as an agent or officer of the owners of land, under the criteria described in Subsection 17B-1-302(2)(b); or
 - (B) at least one member who is elected or appointed to the board as an owner of land, or as an agent or officer of the owner of land, under the criteria described in Subsection 17B-1-302(3)(b)(ii);
- (iii) the public notice required under Subsection 52-4-202(3)(a) for the electronic meeting includes information on how a member of the public may participate in the meeting remotely by electronic means; and
- (iv) the board of trustees allows members of the public to participate in the meeting remotely by electronic means;

(d)

- (i) the public body is a special service district administrative control board established under Title 17D, Chapter 1, Part 3, Administrative Control Board;
- (ii) the administrative control board's membership consists of:
 - (A) at least one member who is elected or appointed to the board as an owner of land, or as an agent or officer of the owner of land, under the criteria described in Subsection 17D-1-304(1)(a)(iii)(A) or (B), as applicable; or

- (B) members that qualify for election or appointment to the board because the owners of real property in the special service district meet or exceed the threshold percentage described in Subsection 17D-1-304(1)(b)(i);
- (iii) the public notice required under Subsection 52-4-202(3)(a) for the electronic meeting includes information on how a member of the public may participate in the meeting remotely by electronic means; and
- (iv) the administrative control board allows members of the public to participate in the meeting remotely by electronic means; or
- (e) all public body members attend the meeting remotely through an electronic video, audio, or both video and audio connection, unless the public body receives a written request, at least 12 hours before the scheduled meeting time, to provide for an anchor location for members of the public to attend in person the open portions of the meeting.
- (6) A determination under Subsection (5)(a)(i) expires 30 days after the day on which the chair of the public body makes the determination.
- (7) Compliance with the provisions of this section by a public body constitutes full and complete compliance by the public body with the corresponding provisions of Sections 52-4-201 and 52-4-202.
- (8) Unless a public body adopts a resolution, rule, or ordinance described in Subsection (2)(c) (v), a public body that is conducting an electronic meeting may not allow a member to vote or otherwise act by proxy.

Amended by Chapter 381, 2024 General Session Amended by Chapter 388, 2024 General Session Amended by Chapter 392, 2024 General Session

52-4-208 Predetermining public body action prohibited -- Exception.

- (1) Individuals constituting a quorum of a public body may not act together outside a meeting in a concerted and deliberate way to predetermine an action to be taken by the public body at a meeting on a relevant matter.
- (2) Subsection (1) does not apply to an individual acting as a member of a body that is not a public body under Subsection 52-4-103(7)(c).

Repealed and Re-enacted by Chapter 392, 2024 General Session

52-4-209 Electronic meetings for charter school board.

- (1) Notwithstanding the definitions provided in Section 52-4-103 for this chapter, as used in this section:
 - (a) "Anchor location" means a physical location where:
 - (i) the charter school board would normally meet if the charter school board were not holding an electronic meeting; and
 - (ii) space, a facility, and technology are provided to the public to monitor and, if public comment is allowed, to participate in an electronic meeting during regular business hours.
 - (b) "Charter school board" means the governing board of a school created under Title 53G, Chapter 5, Charter Schools.
 - (c) "Meeting" means the convening of a charter school board:
 - (i) with a quorum who:
 - (A) monitors a website at least once during the electronic meeting; and
 - (B) casts a vote on a website, if a vote is taken; and

- (ii) for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the charter school board has jurisdiction or advisory power.
- (d) "Monitor" means to:
 - (i) read all the content added to a website by the public or a charter school board member; and
 - (ii) view a vote cast by a charter school board member on a website.
- (e) "Participate" means to add content to a website.

(2)

- (a) A charter school board may conduct an electronic meeting in accordance with Section 52-4-207.
- (b) A charter school board may conduct an electronic meeting in accordance with this section that is in writing on a website if:
 - (i) the chair verifies that a quorum monitors the website;
 - (ii) the content of the website is available to the public;
 - (iii) the chair controls the times in which a charter school board member or the public participates; and
 - (iv) the chair requires a person to identify himself or herself if the person:
 - (A) participates; or
 - (B) casts a vote as a charter school board member.
- (3) A charter school that conducts an electronic meeting under this section shall:
 - (a) give public notice of the electronic meeting:
 - (i) in accordance with Section 52-4-202; and
 - (ii) by posting written notice at the anchor location as required under Section 52-4-207;
 - (b) in addition to giving public notice required by Subsection (3)(a), provide:
 - (i) notice of the electronic meeting to the members of the charter school board at least 24 hours before the meeting so that they may participate in and be counted as present for all purposes, including the determination that a quorum is present;
 - (ii) a description of how the members and the public may be connected to the electronic meeting:
 - (iii) a start and end time for the meeting, which shall be no longer than 5 days; and
 - (iv) a start and end time for when a vote will be taken in an electronic meeting, which shall be no longer than four hours; and
 - (c) provide an anchor location.
- (4) The chair shall:
 - (a) not allow anyone to participate from the time the notice described in Subsection (3)(b)(iv) is given until the end time for when a vote will be taken; and
 - (b) allow a charter school board member to change a vote until the end time for when a vote will be taken.
- (5) During the time in which a vote may be taken, a charter school board member may not communicate in any way with any person regarding an issue over which the charter school board has jurisdiction.
- (6) A charter school conducting an electronic meeting under this section may not close a meeting as otherwise allowed under this part.

(7)

(a) Written minutes shall be kept of an electronic meeting conducted as required in Section 52-4-203.

(b)

(i) Notwithstanding Section 52-4-203, a recording is not required of an electronic meeting described in Subsection (2)(b).

- (ii) All of the content of the website shall be kept for an electronic meeting conducted under this section.
- (c) Written minutes are the official record of action taken at an electronic meeting as required in Section 52-4-203.

(8)

- (a) A charter school board shall ensure that the website used to conduct an electronic meeting:
 - (i) is secure; and
 - (ii) provides with reasonably certainty the identity of a charter school board member who logs on, adds content, or casts a vote on the website.
- (b) A person is guilty of a class B misdemeanor if the person falsely identifies himself or herself as required by Subsection (2)(b)(iv).
- (9) Compliance with the provisions of this section by a charter school constitutes full and complete compliance by the public body with the corresponding provisions of Sections 52-4-201 and 52-4-202.

Amended by Chapter 392, 2024 General Session

52-4-210 Electronic message transmissions.

Nothing in this chapter may be construed to restrict a member of a public body from transmitting an electronic message to other members of the public body at a time when the public body is not convened in a meeting.

Amended by Chapter 392, 2024 General Session

Part 3 Enforcement

52-4-301 Disruption of meetings.

This chapter does not prohibit the removal of any person from a meeting, if the person willfully disrupts the meeting to the extent that orderly conduct is seriously compromised.

Enacted by Chapter 14, 2006 General Session

52-4-302 Suit to void final action -- Limitation -- Exceptions.

(1)

- (a) Any final action taken in violation of Section 52-4-201, 52-4-202, 52-4-207,52-4-208, or 52-4-209 is voidable by a court of competent jurisdiction.
- (b) A court may not void a final action taken by a public body for failure to comply with the posting written notice requirements under Subsection 52-4-202(3)(a) if:
 - (i) the posting is made for a meeting that is held before April 1, 2009; or

(ii)

- (A) the public body otherwise complies with the provisions of Section 52-4-202; and
- (B) the failure was a result of unforeseen Internet hosting or communication technology failure.
- (2) Except as provided under Subsection (3), a suit to void final action shall be commenced within 90 days after the date of the action.

- (3) A suit to void final action concerning the issuance of bonds, notes, or other evidences of indebtedness shall be commenced within 30 days after the date of the action.
- (4) In a suit under this section to void a final action in violation of Section 52-4-208, a court may award a prevailing plaintiff a reasonable attorney fee and costs.

Amended by Chapter 392, 2024 General Session

52-4-303 Enforcement of chapter -- Suit to compel compliance.

- (1) The attorney general and county attorneys of the state shall enforce this chapter.
- (2) The attorney general shall, on at least a yearly basis, provide notice to all public bodies that are subject to this chapter of any material changes to the requirements for the conduct of meetings under this chapter.
- (3) A person denied any right under this chapter may commence suit in a court of competent jurisdiction to:
 - (a) compel compliance with or enjoin violations of this chapter; or
 - (b) determine the chapter's applicability to discussions or decisions of a public body.
- (4) The court may award reasonable attorney fees and court costs to a successful plaintiff.

Renumbered and Amended by Chapter 14, 2006 General Session Amended by Chapter 263, 2006 General Session

52-4-304 Action challenging closed meeting.

- (1) Notwithstanding the procedure established under Subsection 63G-2-202(7), in any action brought under the authority of this chapter to challenge the legality of a closed meeting held by a public body, the court shall:
 - (a) review the recording or written minutes of the closed meeting in camera; and
 - (b) decide the legality of the closed meeting.

(2)

- (a) If the judge determines that the public body did not violate Section 52-4-204, 52-4-205, or 52-4-206 regarding closed meetings, the judge shall dismiss the case without disclosing or revealing any information from the recording or minutes of the closed meeting.
- (b) If the judge determines that the public body violated Section 52-4-204, 52-4-205, or 52-4-206 regarding closed meetings, the judge shall publicly disclose or reveal from the recording or minutes of the closed meeting all information about the portion of the meeting that was illegally closed.
- (3) Nothing in this section may be construed to affect the ability of a public body to reclassify a record, as defined in Section 63G-2-103, as provided in Section 63G-2-307.

Amended by Chapter 425, 2018 General Session

52-4-305 Criminal penalty for closed meeting violation.

In addition to any other penalty under this chapter, a member of a public body who knowingly or intentionally violates or who knowingly or intentionally abets or advises a violation of any of the closed meeting provisions of this chapter is guilty of a class B misdemeanor.

Enacted by Chapter 263, 2006 General Session

Clearfield City Council Rules of Order and Procedure

The Clearfield City Council hereby adopts, pursuant to the Utah Code Annotated § 10-3-606, as amended, the following rules of order and procedure to govern the meetings of the City Council and the elected official thereon. The City Council has not adopted the formality of the Robert's Rules of Order. However, the following rules are based on Robert's Rules of Order, with modifications, and more fully suit the needs of the Clearfield City Council. These are not the only rules followed by the City Council. They are in addition to rules set forth in Utah Code Annotated (Title 10, Utah Municipal Code, and Title 52, Chapter 4, Open and Public Meetings). All rules and procedures of the Clearfield City Council must remain consistent with the Utah Code. These rules shall be made available to the public at each public meeting held by the Council, and shall be posted on the City's website.

I. PURPOSE.

The policies and procedures in this document provides guidelines and direction for the members of the Clearfield City Council and the Mayor in the performance of their duties and conducting their meetings. In addition to these rules, the City Council and Mayor shall be governed by the provisions of all applicable city ordinances and state statutes.

II. SCHEDULING AND CALLING OF MEETINGS.

Pursuant to Utah Code Annotated § 52-4-202(2)(a), as amended, and City Code § 1-6-4, the City Council shall give public notice of its annual policy session meeting schedule. Any additional meeting of the City Council shall be called or scheduled in accordance with Utah Code Annotated § 52-4-201, *et. seq.*

- A. <u>Place.</u> Unless identified otherwise in the notice and agenda, meetings of the City Council will be held at City Hall, 55 South State, Clearfield, Utah.
- B. <u>Policy Session</u>. Policy Sessions are formal meetings wherein the City Council may consider and take formal action on items properly presented before them pursuant to these Rules of Order and Procedure, city ordinance, and state law. All Policy Sessions of the City Council shall be open to the public and include the opportunity for the public to provide comment during a scheduled "Open Comment Period" of the meeting. Policy Sessions of the City Council are generally scheduled for the second and fourth Tuesday of each month, beginning at 7:00 p.m.
- C. <u>Work Sessions</u>. Work Sessions may be held in addition to Policy Sessions, as determined by the Mayor or two City Council members for the purpose of discussion or study of issues or topics that may or may not come before the City Council for action in a future Policy Session. All Work Sessions of the City

Council shall be open to the public. A Work Session is a less formal meeting than a Policy Session, and shall not include an "Open Comment Period" during the meeting. However, at the discretion of the Mayor, limited public comment may be allowed to assist in the furtherance of discussion on a properly noticed and scheduled item. After discussion, items may be referred to a future Policy Session for final action or to a future Work Session if the matter needs further discussion. No action (vote) on items discussed will be taken at a Work Session.

- D. Special Sessions. Pursuant to Utah Code Ann. § 10-3-502, as amended, and City Code § 1-6-4, the Mayor or two City Council members may order the convening of a Special Session, if the business of the city requires it. Under this circumstance, the City Recorder shall provide notice of the Special Session to each City Council member by delivering the notice personally or by leaving it at each council member's usual place of abode. Utah Code Annotated § 10-3-502, as amended. Notice of the Special Session may also be conveyed by a telephone conversation, voice mail, or electronic notice if personal delivery is not accomplished. All other notice and voting requirements shall be as required by Utah Code Annotated § 52-4-202, as amended.
- E. <u>Emergency Sessions</u>. Pursuant to Utah Code Ann. § 52-4-202, as amended, and City Code § 1-6-4, the Mayor or two City Council members may call an Emergency Session for matters of an emergency or urgent nature. An attempt will be made to notify all City Council members of the Emergency Session and the best notice practicable shall be given. Pursuant to Utah Code Ann. 52-4-202(5) a majority of the City Council members must vote in the affirmative to hold the meeting.
- F. <u>Closed Sessions</u>. In certain circumstances, the Mayor or two City Council members may deem it advisable to take certain matters under discussion into a Closed Session with only the Mayor, City Council members, and city staff essential to the meeting present. Such meetings may be held upon the affirmative vote of 2/3 of the City Council members present at such a meeting. The vote must be taken in open meeting. Closed meetings may only be held for purposes deemed lawful under Utah Code Annotated § 52-4-205, as amended.
- G. Quorum. Pursuant to City Code § 1-6-3, three (3) City Council members shall constitute a quorum thereof for the transaction of all business except where otherwise required. The Mayor and each City Council member shall attend Policy and Work Sessions of the City Council unless duly excused or unable to attend because of extenuating circumstances. Any member desiring to be excused shall notify the City Recorder's office. The City Recorder's office shall call the same to the attention of the Mayor. In accordance with the procedures set forth in City Code § 1-6-4(H), the Mayor and City Council members may request to participate in a meeting via electronic means prior to publication of the agenda. If for any reason a City Council member must leave prior to the adjournment of a regularly scheduled Policy or Work Session, excluding extenuating emergency

circumstances, said City Council member must first gain permission from the Mayor. If for any reason the Mayor must leave prior to the adjournment of a regularly scheduled Policy or Work Session, excluding extenuating emergency circumstances, said Mayor must first gain permission from two City Council members. The Mayor and City Council members may not ask to be excused from all or part of a Policy Session to avoid voting on an item lawfully before the elected body. If there is a recess during a Policy Session, the Mayor and the City Council members should not discuss any item on the Policy Session agenda until the Policy Session resumes.

H. <u>Content</u>. Discussion during City Council meetings is to be limited to agenda items and issues reasonably related thereto.

Open Comment Period. The Open Comment Period shall be scheduled to take place during each Policy Session, and is intended to provide the public with the opportunity to address the Mayor and City Council regarding concerns or ideas on any topic. All comments and presentations are limited to relevant issues to the city, and each participating individual shall state his or her name for the record. In order to ensure that the meetings proceed in a timely and orderly manner, a three minute time frame will be provided for such comments or presentations. Additional time may be granted by a majority vote of the City Council. Pursuant to Utah Code Ann. § 52-4-301, any person who disrupts the meeting by exceeding a time limit, discussing irrelevant issues, or otherwise, may be removed at the direction of the Mayor. The Open Comment Period is not intended, nor shall it be, the forum in which the public and elected officials or city staff engage in dialogue or debate. At the discretion of the Mayor, limited clarifying questions or dialogue between the public and elected officials may occur through the Mayor, with special care given by the Mayor to ensure that the intent of the Open Comment Period is not compromised.

- I. <u>Recess</u>. The Mayor, or two Council Members may call a recess to any City Council meeting. All recesses should attempt to minimize disruption, be limited in time, and include an expression of when the meeting will be reconvened into order.
- J. <u>Additional Guidelines</u>. In addition to these Rules of Order and Procedures, the City Council may invoke additional guidelines as necessary to address issues as they arise, so long as they are consistent with the nature and intent with the content herein.

III. PREPARATION OF THE AGENDA AND DELIVERY OF INFORMATION PACKETS TO THE CITY COUNCIL MEMBERS

For each City Council meeting, the City Recorder's office will prepare an agenda under the direction of the Mayor and City Manager. Under usual circumstances, the Mayor and City Council members will receive a packet containing the agenda of such meeting and information pertaining to items on the agenda. To allow the Mayor and City Council members adequate time to study the items for consideration at the upcoming meeting, all information for the agenda and packet will typically be delivered or made available electronically by the City Recorder's office no later than noon on the Thursday preceding the Tuesday meeting.

The agenda and packet is also published online, at the City's webpage, www.clearfieldcity.org, and online at the Utah Public Notice Website, www.utah.gov.

IV. COMPUTERS, CELL PHONES AND TABLETS FOR CITY COUNCIL MEMBERS

The Mayor and City Council members may acquire and maintain computers, tablets, cell phones, etc. for ease of access to all pertinent city information, such as email, city code, web sites, and agenda packets. The cost allotted for such equipment, including maintenance and service, will be addressed and decided by the City Council members each year during budget discussions. The amount decided upon will be included as a line item in the general fund.

V. SERIOUS MOMENT FOR REFLECTION

- A. Each City Council meeting will begin with a Serious Moment for Reflection comprised of a prayer, other supplication, moment of silence, inspirational thought, an inspirational reading, etc. The Serious Moment for Reflection will be led by or under the direction of the Mayor, an assigned City Council member, or a volunteer community member. The Mayor or a City Council member may delegate their assigned Serious Moment for Reflection to an individual or group that agrees to provide the Serious Moment for Reflection in accordance with Section V, subsection E, of these Rules of Order and Procedure. A volunteer community member may not delegate a scheduled Serious Moment for Reflection.
- B. Upon timely request, the Serious Moment for Reflection may be conducted by any person having a significant connection to the Clearfield City community, including residents, city business leaders, city educational leaders, city religious leaders, city civic leaders, etc. The request must be delivered to the City Recorder no later than noon on the Tuesday one week prior to the City Council meeting for consideration for placement on the next available agenda. The request shall contain the following information:
 - 1. The name and address of the individual requesting to present the Serious Moment for Reflection;
 - 2. The person's connection to the Clearfield City community; and

- 3. The general nature of the presentation, i.e., prayer, supplication, inspirational thought, moment of silence, or will specify if other than these types.
- C. Upon receiving the request, if no other person has made an earlier request, the person will be placed on the agenda to present the Serious Moment for Reflection at the next available scheduled City Council meeting. If multiple requests are received, each person making a request shall be scheduled to present at an upcoming City Council meeting according to the order in which the request is made.
- D. Each person who files a request with the City Recorder's office will be given a copy of the guidelines for presenting the Serious Moment for Reflection outlined below in E.
- E. The person providing the Serious Moment for Reflection shall adhere to the following:
 - 1. The purpose of the Serious Moment for Reflection is to set the tone for the proceedings of the City Council. It may consist of a prayer, supplication, inspirational thought, inspirational reading, a moment of silence, or other appropriate activity.
 - 2. It should promote thoughtful attention to public duty and high moral and ethical standards.
 - 3. It should promote peace, unity, and tolerance in the community.
 - 4. It is not a time to disparage the beliefs of others or to promote one's own beliefs or point of view.
 - 5. It should not degrade any person because of religion, race, ethnic background, national origin, sex, sexual orientation, or philosophy.
 - 6. It should not be crude, vulgar, or offensive to the public sense of decency.
 - 7. It is not a time to demean or criticize local leaders.
 - 8. If it is the person's intent to argue, complain, criticize, etc., the Open Comment Period of each City Council meeting is the time to do so, not the Serious Moment for Reflection.
 - 9. The presentation may not exceed three minutes.
 - 10. The presenter must be in attendance and prepared to proceed on time.

- 11. A presenter may only present once in a six-month period of time.
- 12. The presenter must abide by the City Council's rules of decorum as set forth in Section IX of these Rules of Order and Procedure.
- F. To provide equal access to participate, the opportunity to present the Serious Moment for Reflection at City Council meetings will be advertised to the community by the following methods:
 - 1. An invitation to the public to participate will be posted at city hall outside the City Council chambers.
 - 2. An invitation to the public to participate will be posted on the city's website.
 - 3. The invitation will be substantially in this form:

 "The Clearfield City Council invites all city residents, city business leaders, city education leaders, city civic leaders, city religious leaders, or any other person with a significant connection to the Clearfield City community to participate at an upcoming City Council meeting by presenting during the Serious Moment for Reflection at the commencement of the meeting. Persons interested in volunteering for this public service should contact the City Recorder's office no later than noon on the Tuesday preceding a scheduled City Council meeting."
- G. If an interested community member fails to timely volunteer, or, having volunteered, fails to timely appear, the Mayor will assign a City Council member to present the Serious Moment for Reflection.

VI. ORDER OF BUSINESS AND ORGANIZATION OF CITY COUNCIL AGENDA

The City Council generally considers business at its scheduled Policy Sessions in the following order:

A. Opening Ceremonies.

- 1. <u>Welcome/Introductions Acknowledge Visitors</u>. The Mayor will call the meeting to order and welcome those in attendance and acknowledge visitors.
- 2. <u>Serious Moment for Reflection/Pledge of Allegiance</u>. The Mayor will announce the name of the person scheduled to present during the Serious Moment for Reflection and pledge of allegiance. As outlined in Section V of these Rules of Order and Procedure, a person may volunteer and be scheduled to present the Serious Moment for Reflection and/or pledge of allegiance by notifying the City Recorder.

- B. <u>Approval of the Minutes</u>. The Mayor will ask if there are any changes or corrections for the draft minutes. When changes and corrections have been made, the Mayor will call for a motion and second to adopt the minutes. Once the minutes have been adopted, no alterations may be made and they become the official record of the meeting.
- C. <u>Special Presentations</u>. Occasionally, ceremonial tasks or presentations from outside agencies are needed at the beginning of the City Council meeting. Normally, such items do not require a motion.
- D. Public Hearings. Some legislative items require Public Hearings for the City Council to receive public comment prior to taking action on the items. Public comment during a Public Hearing may only be received after proper notice has been made by the City Recorder. The Mayor will declare the Public Hearing open, call for public comments, and give all individuals desiring to comment the opportunity to address the City Council on the matter. A Public Hearing shall only take place during a Policy Session, and is intended to provide the public with the opportunity to provided limited comments, testimony, or opinion. The Public Hearing portion of a Policy Session is not intended, nor shall it be, the forum in which the public and elected officials or city staff engage in dialogue or debate on the specific item scheduled for a Public Hearing. At the discretion of the Mayor, limited clarifying questions or dialogue between the public and elected officials may occur through the Mayor, with special care given by the Mayor to ensure that the intent of a Public Hearing is not compromised.
- E. <u>Consent Items</u>. If the agenda item is routine and likely non-controversial, it may be placed on the formal council meeting agenda, under "Consent Items." The Mayor should ask if there are any questions concerning the Consent Items. The Mayor should identify and briefly explain each of the Consent Items appearing on the agenda to all those present, viewing, or reviewing the record of the meeting. The items appearing as consent, generally, shall consist of matters which require no further discussion or which are routine in nature. Usually, all items appearing as a consent item shall be adopted by a single motion, second and vote. However, prior to the motion to adopt the consent items, a council member may have an item removed from the consent items without a motion for further discussion. Items moved from the consent portion of the agenda will be addressed in that section of the agenda ahead of agenda items listed for discussion. A motion, second and vote will be called for the adoption of the remaining consent items.
- F. <u>Scheduled Items</u>. The City Council may use this time to discuss matters identified on the agenda. The Mayor may call for a motion on the matter then 1) announce the author of the motion, 2) restate the motion, 3) announce who seconded the motion, 4) ask if there is a question on the motion, and, 4) call for a vote on the motion. The author of a motion may amend or withdraw that motion

- before it has been voted on with the concurrence of the person who seconded the motion and a vote of the City Council.
- G. <u>Communication Items</u>. The Mayor and City Council members may update, report, and communicate items of interest at the meeting. No action may be taken by the City Council during Communication Items. The Mayor and City Council shall not use this time to thwart any section within these Rules of Order and Procedure, city ordinances, or state laws. The Communication Items portion of the agenda shall not be used in a manner to perform any act that would otherwise not be allowed. For example, the Mayor and City Council should not participate in discussions, debates, or engage with the public or act on issues not properly before the City Council.

VII. MOTIONS.

- A. <u>Making of Motions</u>. Any City Council member may make or second a motion. Motions should state findings for denial or approval within the motion.
 - 1. Motions should state findings at the beginning.
 - 2. The staff reports should be in sufficient detail to assist the council in stating findings.
- B. <u>Second Required</u>. Each motion of the City Council must be seconded to proceed to a vote. A motion that receives no second shall fail.
- C. <u>Motion to Amend</u>. After a motion has been seconded, another City Council member may offer an amendment to the original motion author, which he or she, together with the seconder of the motion, may accept or reject. Incidental amendments are informal and are not counted toward motions to amend. To retain clarity, the main motion should be amended no more than two times.
- D. <u>Withdrawing a Motion</u>. A motion may be withdrawn at any time before decision or amendment by the unanimous consent of the City Council.
- E. <u>Motion to Table</u>. A motion to table an agenda item for further study should be accompanied by specific reasons for tabling the matter. When possible, a specific date to rehear the matter should be scheduled, followed by a second. The Mayor will call for a vote on the motion.
- F. <u>Motion to Close Public Hearings</u>. The Mayor will declare public hearings open. Following the conclusion of receiving any public comment, a motion shall be made to close the public hearing followed by a second. The Mayor will call for a vote on the motion.

- G. <u>Motion to Recess</u>. A motion shall be made to break for a specific purpose followed by a second. The Mayor will call for a vote on the motion.
- H. <u>Motion to Adjourn</u>. A motion to adjourn the meeting shall be made at the end of each City Council meeting, followed by a second.

VIII. VOTING.

Except as otherwise specifically provided in these rules, a majority vote of the City Council shall be required and shall be sufficient to transact any business before the City Council.

- A. <u>Form of Vote</u>. Voting shall be in the form of "yes" or "aye," "no" or "nay," and "abstain," and the names of those voting for, against, or abstaining entered in the City Council minutes.
- B. Roll Call. "Roll Call" means that each City Council member verbally gives his or her vote when called upon to vote. A roll call vote is required for all ordinances and resolutions and may occur for other votes. Any member of the City Council has the discretion to call for a roll call vote. The act of the roll call vote itself and subsequent accounting shall be performed by the City Recorder.
- C. <u>Voice Vote</u>. If a roll call vote is not required, a voice vote may occur. A voice vote is conducted by the Mayor calling for a vote in turn of those in favor of the motion and those against with City Council members responding simultaneously.
- D. <u>Changing a Vote</u>. No member shall be permitted to change his/her vote after the decision is announced by the Mayor.
- E. Tie Votes. Tie votes shall be broken by the Mayor casting a vote.
- F. Conflict of Interest/Disqualification. The Mayor and City Council members are required by Utah Code Annotated § 10-3-1301, as amended, to disclose actual or potential conflicts of interest between their public duties and their personal interests. Under most conflict of interest situations, City Council members (and Mayor, if placed in voting situation) should abstain from voting on a matter if they have a substantial interest in the item, and avoid participating in the discussion as well. Pursuant to Utah Code Annotated § 10-3-1303(9), "Substantial interest" means the ownership, either legally or equitably, by an individual, the individual's spouse, or the individual's minor children, of at least ten percent (10%) of the outstanding shares of a corporation or ten percent (10%) interest in any other business entity.
- G. <u>Minimum Votes Required</u>. Unless otherwise provided herein, a minimum of three (3) affirmative votes are required to make a determination on items presented to the City Council unless otherwise stipulated by law.

H. <u>Explanation of Vote</u>. A City Council member desiring to explain his or her vote should do so prior to the roll call or voice vote.

IX. DECORUM

A. <u>Conduct of the Mayor and City Council Members</u>. The Mayor and City Council members shall avoid personal attacks and restrict comments to issues before the body. Violations of decorum or conduct shall be resolved by the Mayor or a majority vote of the City Council.

The Mayor and City Council members should avoid engaging in private discourse or committing any other act which may tend to distract the attention of the City Council or the audience from business before the City Council, or which might interfere with any person's right to be heard after recognition by the Mayor during a meeting.

The Mayor and City Council members shall avoid using City Council meetings as an opportunity to campaign personal views or draw attention to personal websites or social media platforms. The Mayor and City Council members are serving in official positions and acting on behalf of the city in all open meetings.

B. Conduct of the Mayor and City Council Members on City Social Media

Platforms. The city's image as a professional organization is critical to maintain the respect of its constituents. Although the city recognizes that elected and appointed officials may choose to express themselves by posting personal information upon social media platforms or by making comments on sites hosted by other persons, groups, or organizations, this right of expression should not interfere with the operation of the city. That is, although the Mayor and City Council acknowledges its officials have the First Amendment right to free speech, the right is not absolute when involving matters of official city business. As such, the Mayor, with the consent of the City Council, has authorized the City Manager or his or her designee(s) to be the authorized individual(s) to speak on behalf of the city on all city social media platforms.

To ensure that the voice of the city is professional and consistent, the Mayor and City Council members shall not comment on any city social media platforms. Comments shall include, but is not limited to "likes," "dislikes," or any other type of written or visual expression of opinion. The Mayor and City Council members may tag or share a link to a city social media platform, i.e. share the city message with others, but the Mayor or a City Council member may not link their personal social media platform to any city social media platform.

The Mayor and City Council members understand that if an elected official conducts any city business or communication as an official from a personal account, professional account, or an account created by a

board/committee/commission, officials should assume the city-related communication will be considered (1) a public record subject to the Utah Public Records laws, and (2) communication subject to the Utah Open and Public Meetings Act.

The Mayor and City Council members shall abide by the City's Social Media Policy, as adopted.

C. <u>Conduct of Residents and Attendees at City Council Meeting</u>. Those in attendance should be admonished to avoid personal attacks, demonstrations, or outbursts without being recognized by the Mayor. Individuals should be required to address their remarks directly to the City Council as a body concerning the agenda business. Persons engaged in disruptive behavior shall be removed by a member of the city police department at the direction of the Mayor or a majority of the City Council members.

When speaking or discussing issues lawfully before the City Council, all persons, including the Mayor and City Council members, shall confine their remarks to the question under discussion, avoiding remarks or discussions related to individual personalities, and not the issues lawfully before the City Council. Anyone engaging in discussion beyond the question before the City Council shall be ordered to stop by the Mayor and no further discussion will be allowed by said person.

X. ORGANIZATION.

A. Duties of the Mayor.

- 1. Preside at all meetings of the City Council and shall provide general direction for the meetings;
- 2. Call the City Council to order and to proceed with the order of business;
- 3. Receive and submit in the proper manner all motions and propositions presented by City Council members;
- 4. Put to vote all questions which are properly moved or necessarily arise in the course of proceedings and to announce the result thereof;
- 5. Inform the City Council, when necessary, or when referred to for that purpose, on any point of order of practice. In the course of discharge of this duty, the Mayor shall have the right to call upon legal counsel for advice;
- 6. Authenticate by signature when necessary, or when directed by the City Council, all acts, orders and proceedings of the City Council;

- 7. Maintain order at City Council meetings;
- 8. Move the agenda along, hold down redundancy, reference handouts and procedures in a sensitive way during meetings;
- 9. Recognize speakers and City Council members prior to receiving comments and presentations of physical evidence, i.e. plans and pictures; and
- 10. Participate in the voting procedures only when called upon to break a tie vote.
- B. <u>Duties of the Mayor Pro Tem</u>. The Mayor may appoint a Mayor Pro Tem with the advice and consent of the City Council. The Mayor Pro Tem shall have and perform all the duties and functions of the Mayor in the absence of the Mayor. Throughout these Rules of Order and Procedure, the role and duties of the Mayor may be inferred to apply to the Mayor Pro Tem, as necessary.
- C. <u>Absence of Mayor and Mayor Pro Tem</u>. In the absence of both the Mayor and Mayor Pro Tem, when necessary, the City Council may elect in an open meeting, one of its members to serve as the Mayor Pro Tem until either the Mayor or the appointed Mayor Pro Tem returns.
- D. <u>City Recorder</u>. The City Recorder shall serve as secretary to the City Council. The City Recorder shall have the following duties;
 - 1. Annually, within ten (10) business days after the first meeting of the City Council in December of each year, give public notice of the annual Policy Session meeting schedule of the forthcoming year. If during any year the annual Policy Session meeting schedule for that year is revised, the City Recorder shall give notice of the revised annual Policy Session meeting schedule.
 - 2. Give notice of the agenda, date, time and place of each meeting of the City Council as follows:
 - a. Post at the principal office of the City Council at least twenty four (24) hours prior to the meeting; and
 - b. Provide notice to at least one newspaper of general circulation within the city not less than twenty four (24) hours prior to the meeting, or providing such notice to a local media correspondent; and
 - c. Post on the city's website.
 - d. Post on the State of Utah's Public Notice website.
 - e. Copies of the notice shall likewise be furnished at least twenty four (24) hours prior to the meeting to each member of the City Council.

- 3. Keep and record the minutes of the proceedings of all meetings of the City Council;
 - a. Draft minutes will be made available to the public within 30 days following the meeting.
 - b. Approved minutes will be posted to the Utah Public Notice website and be made available at the primary office of the public body within (3) three business days following approval of said minutes.
 - c. Audio recordings of the meeting will be made available, upon request to the public within three business days of the public meeting.
- 4. Keep and maintain a permanent record file of all documents and papers pertaining to the work of the City Council;
- 5. Prepare the approved written minutes for the Mayor's signature; and
- 6. Perform such other duties as may be required.

XI. AMENDMENT, REVISION, OR ADDITION TO THE RULES OF ORDER AND PROCEDURE

Any City Council member may propose amendments, revisions, or additions to these Rules of Order and Procedure to the Mayor.

Each amendment, revision, or addition proposed by a City Council member shall be in written form and copies shall be provided to each City Council member by the City Recorder's office.

Consideration of any amendments, revisions, or additions to these Rules of Order and Procedure shall be noticed on a City Council agenda in conformance with the Utah Open and Public Meetings Act.

A majority vote of the City Council shall be required for passage and adoption of an amendment, revision, or addition to these Rules of Order and Procedure.

A copy of the Rules of Order and Procedures will be made available to any person who requests the same.

XII. COMPLIANCE AND ENFORCEMENT

The Clearfield City Council Rules of Order and Procedure are intended to be self-enforcing. It therefore becomes most effective when the Mayor and all City Council members are thoroughly familiar with it and embrace its provisions.

The Clearfield City Council Rules of Order and Procedure expresses standards for ethical conduct expected of the elected officials of Clearfield City. Individuals themselves have the primary responsibility to ensure that ethical standards are understood and met, and

that the public can continue to have full confidence in the integrity of government. The elected officials of Clearfield City have the responsibility to intervene when actions of members appear to be in violation of the Rules of Order and Procedure, any city ordinance, or state or federal laws, whether if they are witnessed or brought to their attention. The City Council by majority vote may also impose sanctions on those individuals whose conduct does not comply with the city's ethical or professional standards. Sanctions may include:

- Official verbal reprimand in an open meeting
- Formal public letter of censure by the Mayor or majority of the City Council
- Loss of committee assignment(s)
- In accordance with Utah Code 52-4-301 or 10-3-607, any member of the City Council, including the Mayor, acting in violation of these Rules of Order and Procedure, city ordinance, or state or federal law may be removed from meetings
- Other courses of action as they are made available by state statute and legal means and agreed upon by a majority of the Clearfield City Council