CITY OF SOUTH JORDAN

CITY COUNCIL SPECIAL MEETING

COUNCIL WORK ROOM

November 9, 2022

Present: Council Member Jason McGuire, Council Member Don Shelton, Council Member Brad Marlor, Council Member Tamara Zander, Council Member Patrick Harris, City Manager Gary Whatcott, Deputy City Manager Dustin Lewis, City Attorney Ryan Loose, Director of Budget and Strategic Services Director Don Tingey, IT Director Jon Day, Fire Chief Chris Dawson, CFO Sunil Naidu, Director of City Commerce Brian Preece**,** City Recorder Anna Crookston, Strategy and Budget Analyst Abagail Patonai

Absent: Mayor Dawn R. Ramsey

Others: Sam Bishop

Before the meeting began, Council Member Shelton motioned to appoint Council Member Tamara Zander as Mayor Pro Tempore. Council Member Marlor seconded the motion; vote was unanimous in favor.

5:48 P.M.

A. Welcome, Roll Call, and Introduction – *By Mayor Pro Tempore, Tamara Zander*

Mayor Pro Tempore Zander welcomed everyone to the meeting and shared that the mayor will be joining the meeting shortly.

B. Invocation – *By Director of Budget & Strategy, Don Tingey*

Director Tingey offered the invocation.

C. Dinner Served

D. Training: Open and Public Meetings Act and Ethics.

City Attorney Ryan Loose played a video related to the training on open meetings (Attachment A) and shared an Open and Public Meetings Act Handout (Attachment B).

Council Member Marlor asked if an emergency meeting can be called without the standard public notice.

Attorney Loose said yes, they just need to give as much notice as reasonably possible in the situation. He discussed prior times when an emergency meeting was called, specifically referencing the emergency meeting called to deal with the McManagle house on July 24. All of the council members were summoned to a virtual meeting where staff explained the situation and got the council's feedback.

Mayor Pro Tempore Zander said she knows they have to give notice on the city website, but what else would they do before an emergency meeting.

Attorney Loose responded that if they can get a hold of the City Recorder, they will have it put on the public notice website; they will essentially put it anywhere they reasonably can.

City Recorder Anna Crookston said that as part of the Utah Public Notice Website, there is an emergency meeting option to choose; during an audit it would show the reason for giving less than a 24 hour notice was because it was an emergency meeting.

Mayor Pro Tempore Zander asked who deems it an emergency.

Attorney Loose responded that the council would. Staff would reach out to the council members and say they want to have an emergency meeting because of a specific reason, and then the council would decide whether or not that meeting needs to happen.

Mayor Pro Tempore Zander asked about a situation where someone proposes an emergency meeting, and three of the five council members don't agree that the situation is an emergency warranting a meeting.

Attorney Loose responded that there would be no meeting.

Mayor Pro Tempore Zander asked how that vote would be taken.

Attorney Loose responded that they might send out a text, email, or they might call the council members; they will do whatever they can to get a hold of each person. If there is an event that takes down cell towers, they might send someone to their homes. He then moved on to discussing ethics and gave everyone an Ethics Handout (Attachment C) and a Code of Ethics Policy Handout (Attachment D).

Mayor Pro Tempore Zander asked where the information is stored once they sign the disclosures, and how the public accesses it.

Recorder Crookston responded that the administrators for each department sends it out to their employees, she then attests to each one that comes in after the employee has filled it out and signed it. If they have listed potential conflicts, she has a spreadsheet where she tracks those individual employees with a listing of the potential conflict(s). Those are stored with the city recorder for six years. It is the same with the elected officials' disclosures.

Council Member Zander asked if the public can access those records.

Recorder Crookston responded that they can through a GRAMA request.

Attorney Loose noted that it was brought up at a recent study session that at one point in time, the council chose not to have ex-parte or individual communications in a nonpublic area with developers. A few years ago the council chose to take that out, and that allowed the council members to be lobbied. If there is anything above and beyond the state laws that the council wishes to hold themselves to in terms of ethics which can be done with a resolution. Also, the council members should be holding each other responsible. If something inappropriate or illegal is done by a council member, the other members of the council are responsible for calling that out and taking appropriate action.

Council Member Harris asked if there was anything in the current code of ethics that staff feels needs to be changed or discussed.

Attorney Loose responded he didn't see anything, and Deputy City Manager Dustin Lewis didn't have anything to suggest and offered to email each council member a copy of the current code of ethics. Attorney Loose then moved on to discuss the city's hotline, which has had only one call so far which was to report prescription fraud, and was not something the hotline would handle. The call was routed to his office and they were able to route it to the appropriate parties for further action.

Council Member McGuire motioned to recess the City Council Special Meeting and move to Executive Closed Session. Council Member Shelton seconded the motion; vote was unanimous in favor.

RECESS CITY COUNCIL SPECIAL MEETING AND MOVE TO EXECUTIVE CLOSED SESSION

E. Executive Closed Sessions

E.1. Litigation

E.2. Property

RECESS EXECUTIVE CLOSED SESSION AND RETURN TO CITY COUNCIL SPECIAL MEETING

Council Member Marlor motioned to adjourn the Executive Closed Session and return to the City Council Special Meeting. Council Member Shelton seconded the motion; vote was unanimous in favor.

Manager Lewis asked if December 14 works for everyone's schedules to have the next Special Meeting.

The council discussed times and everyone agreed on 5:00 p.m. for the meeting.

The council and staff discussed some of the items planned for that agenda and what is needed from everyone before that meeting.

Council Member McGuire motioned to adjourn the City Council Special Meeting. Council Member Harris seconded the motion; vote was unanimous in favor.

ADJOURNMENT

The City Council Special Meeting ended at 8:59 P.M.

This is a true and correct copy of the November 9, 2022 City Council Special Meeting Minutes, which were approved on December 6, 2022.

Anna Crookston
South Jordan City Recorder

Attachment B - Training 11-9-2022 Special Meeting

Open and Public Meetings Act

A Summary of Key Provisions for Legislators | April 29, 2022

The Open and Public Meetings Act (OPMA) requires that members of a public body be "provided with annual training on the requirements of [the Open and Public Meetings Act]" (Section 52-4-104). This document is intended to facilitate compliance with that requirement and to help legislators understand OPMA. This summary is intended for a state legislative audience and does not attempt to explain or address requirements for other public bodies. Key terms are defined at the end of the document.

OPMA's stated goal is to ensure that the state, its agencies, and its political subdivisions deliberate and take action openly *(Section 52-4-102)*.

Public Notice

(Section 52-4-202)

A public body is required to provide public notice of a meeting at least 24 hours before the meeting. The public notice is required to:

- specify the date, time, and place of the meeting;
- include an agenda that specifies the topics the public body will consider;
- be posted on the Utah Public Notice Website and at the location of the meeting, unless the meeting is being held without an anchor location; and
- be provided to a newspaper or local media correspondent.

A public body may discuss an item raised by the public that is not listed on the agenda but may not take final action on the item at the meeting.

Minutes and Recordings

(Section 52-4-203)

- A public body is required to keep written minutes and a recording of all meetings unless the meeting is a site visit or traveling tour where no vote or action is taken.
- A recording of the open portions of the meeting must be posted on the Utah Public Notice Website within three business days after the public meeting.
- Draft minutes are required to be made available to the public within 30 days after the meeting.
- The approved minutes and any public materials distributed at the meeting must, within three business days after their approval, be:
  - posted on the Utah Public Notice Website; and
  - made available at the public body's office.

2022 Amendments to OPMA

- H.B. 22 requires a public body to establish how a quorum is calculated for electronic meetings, prohibits a public body from permitting a member to vote or take other action by proxy during an electronic meeting unless the body adopts a resolution, rule, or ordinance allowing a member to act by proxy, and requires all non-unanimous votes during an electronic meeting to be taken by roll call.
- S.J.R. 5 allows a legislative public body to convene and conduct an electronic meeting, specifies the circumstances under which a member of a legislative public body may participate remotely in an electronic meeting, and addresses the appearance and conduct of a member who participates remotely in an electronic meeting.
- H.B. 439 modifies the requirement for recording votes in the meeting minutes of a public body.

Closed Meetings

(Sections 52-4-204 and 52-4-205)

A public body may hold a closed meeting only for certain purposes, including to discuss:

- a person's character, competence, or health;
- pending or imminent litigation;
- certain matters regarding acquisition or sale of real property, including water rights or shares;
- the deployment of security personnel, devices, or systems;
- an investigation of alleged criminal conduct;
- the receipt or review of an ethics complaint, if the public body is the Independent Legislative Ethics Commission;

- certain matters under the jurisdiction of a legislative ethics committee; and
- certain deliberations and decision making involved in the procurement process.

A public body may close a meeting only by a two-thirds vote with a quorum present, except that a majority vote is sufficient for closing a meeting of:

- the Health and Human Services Interim Committee to review a fatality review report;
- the Child Welfare Legislative Oversight Panel to review a fatality review report or review and discuss an individual case; or
- an ethics committee of the Legislature to receive legal advice or deliberate on a complaint.

No vote is required to close a meeting of the Independent Legislative Ethics Commission to review an ethics complaint if the publicly distributed agenda for the meeting states that the meeting will be closed.

A public body that closes a meeting is required to announce and record in the minutes the reasons for closing the meeting.

A public body may not close a meeting to discuss filling a midterm vacancy or temporary absence for an elected position, or to discuss a person whose name was submitted to fill a midterm vacancy or temporary absence for an elected position.

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.

Emergency Meetings

(Section 52-4-202 and JR1-4-402)

A public body may hold an emergency meeting and is not required to give 24-hour notice if unforeseen circumstances arise that require the public body to consider matters of an emergency or urgent nature. However, a public body may not hold an emergency meeting unless it attempts to notify all members of the public body and a majority of its members approve the meeting.

Any member of a legislative public body may attend an emergency electronic meeting by electronic means and the public body may conduct an emergency electronic meeting of the legislative public body remotely by electronic means.

Electronic Meetings

(Section 52-4-207 and JR1-4-402)

A public body may not convene or conduct a meeting by electronic means unless it has adopted procedures to govern electronic meetings, including how a remote member will be included in calculating a quorum. Electronic meetings shall comply with OPMA, including posting written notice of the meeting at the anchor location, unless the meeting is being held without an anchor location.

A public body may conduct an electronic meeting without an anchor location if the chair of the public body:

- makes a determination that conducting the meeting with an anchor location presents a substantial risk to the health or safety of those who may be present at the anchor location;
- states the facts upon which the determination was made; and
- includes in the public notice for the meeting information on how the public may view or make comment at the meeting.

If an electronic meeting is held without an anchor location, a public body shall provide means by which the public can view and hear the open portions of the meeting and provide comments electronically.

A member of a legislative body may attend a meeting remotely by electronic means if the member has a specified reason and notifies the chair of the public body.

When a member of a legislative public body attends a meeting of the legislative public body by electronic means, the member's attire and appearance shall be consistent with the attire and appearance that would be expected if the member were attending the meeting in person. The member's location should also reflect the dignity of the meeting, particularly if the member is attending via video conference.

A member of a legislative public body may not attend a meeting by electronic means while engaging in any activity that would be abnormal or prohibited if the member were attending the meeting in person, including operating a motor vehicle.

Penalties

(Sections 52-4-302 and 52-4-305)

Open Meetings - Any final action taken in a meeting that is in violation of certain open-meeting provisions of OPMA is voidable by a court.

Closed Meetings - It is a class B misdemeanor to knowingly or intentionally violate the closed meeting provisions of OPMA.

Definitions *(Sections 52-4-103 and JR1-4-401)*

Meeting means a convening of a public body with a quorum present to discuss, receive public comment about, or act upon a matter over which the public body has jurisdiction or advisory power.

Meeting does not mean a chance or social gathering or a convening of a public body that has both legislative and executive responsibilities in certain circumstances.

Legislative Public Body means a public body that is governed by legislative rules.

Public Body means an administrative, advisory, executive, or legislative body of the state or its political subdivisions that:

- is created by the Utah Constitution, state statute, rule, ordinance, or resolution;
- expends, disburses, or is supported in whole or in part by tax revenue; and
- is vested with the authority to make decisions regarding the public's business.

Public body does not include a political party, political group, or political caucus, or a conference committee, rules committee, or sifting committee of the Legislature.

Specified Reason means:

- illness or injury of a member or a member's relative;
- health or safety concerns of a member or a member's relative;
- emergency travel;
- an emergency work related issue;
- an emergency child care related issue;
- a mandatory action day or a special circumstance day; or
- a circumstance similar to the circumstances described above.

Attachment C

City of South Jordan

City-wide Policy 210-04

Ethical Behavior

POLICY STATEMENT

The purpose of this policy is to establish a policy governing ethical behavior for all City officers and employees.

RESPONSIBILITY

This policy has been developed by the City Finance department for all City officers and employees. The responsibility for compliance with this policy rests with every City officer and employee.

POLICY AND PROCEDURES

1. All City employees and officers will sign an officer and employee disclosure statement yearly, disclosing any conflicts and agreeing to follow the City's ethical behavior policy.
    a. All City employees will follow the following ethical behavior, which includes:
        i. Not participating in decisions or actions in which the employee or official has a real or reasonably perceived conflict.
        ii. Not using authority for personal gain or that of the close friends, family, or business associates.
        iii. Not accepting gifts, loans or bribes.
        iv. Keeping information not subject to GRAMA confidential.
        v. Follow nepotism laws (Utah Code 52-3).
        vi. Appropriate and legal use of public resources or property (Utah Code 76-8-4 and per the City's employee handbook and policies).
        vii. Establish individual accountability, including consequences for noncompliance (e.g. suspension, termination).
    b. All City employees and officers commit to follow all City policies and code, including but not limited to, the Citywide polices and the employee handbook.
2. Violations of this policy – any violation of this policy may result in disciplinary action, consistent with the City's employee handbook, up to and including termination.

R2018-02 Exhibit A

CODE OF ETHICS
R2012-24 4/17/2012
For members of South Jordan City Council,
Boards, Committees and Commissions
Adopted by the South Jordan City Council

Preamble:

The Citizens and businesses of South Jordan City are entitled to have fair, ethical and accountable local government, which has earned the public's full confidence and trust. In keeping with South Jordan City's Commitment to Excellence, the effective functioning of the government, therefore requires, that:

- Public officials, both elected and appointed, comply with both the letter and spirit of the laws and policies affecting the operations of government;
- Public officials be independent, impartial and fair in their judgment and actions;
- Public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, the South Jordan City Council has adopted a Code of Ethics for Members of the City Council and of the City's boards, committees and commissions to ensure public confidence in the integrity of local government and its effective and fair operation.

1. Act in the Public Interest

Recognizing that stewardship of the public interest must be their primary concern, Members will work for the common good of the people of South Jordan and not for any private or personal interest, and they will ensure fair and equal treatment to all persons, claims and transactions coming before the South Jordan City Council, boards, committees and commissions

2. Comply with the Law

Members shall comply with the laws of the nation, the State of Utah and the City of South Jordan in the performance of their public duties. These laws include, but are not limited to: the United States and Utah Constitutions; the South Jordan City Municipal Code; laws pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government; and City policies and procedures.

3. Conduct of Members

The professional and personal conduct of Members must be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other Members of Council, boards, committees and commissions, the staff or public.

4. Respect for Process

Members shall perform their duties in accordance with the processes and rules of order as established by the City Council, board, committees and commissions governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions of the City Council by City Staff.

5. Conduct of Public Meetings

Members shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand. They shall refrain from interrupting other speakers; making personal comments not germane to the business of the body; or otherwise interfering with the orderly conduct of meetings.

6. Decisions Based on Merit

Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.

7. Communication

Members shall publicly share substantive information that is relevant to a matter under consideration by the Council, boards, committees and commissions, which they may have received from sources outside of the public decision-making process. Exparte communication dealing with matters that will be heard by Members in a quasi-judicial capacity shall be deemed inappropriate. Members shall refrain from communication where all parties are not present, with any individual, group or business regarding matters that are pending before them in a quasi-judicial capacity.

8. Conflict of Interest

In order to ensure their independence and impartiality on behalf of the common good, Members shall not use their official positions to influence governmental decisions in which they have a material financial interest, or where they have an organizational responsibility or personal relationship, which may give the appearance of a conflict of interest.

In accordance with law, Members shall disclose investments, interest in real property, sources of income, and gifts; and they shall abstain from participating in deliberations and decision-making where conflicts may exist.

9. Gifts and Favors

Members shall not take any special advantage of services or opportunities for personal gain, by virtue of their public offices, that are not available to the public in general. They shall refrain from accepting gifts, favors or promises for future benefits, which might compromise their independence of judgment or action or give the appearance of such being compromised.

10. Confidential Information

Members shall respect the confidentiality of information concerning the property, personnel or affairs of the City. They shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial or other private interests.

11. Use of Public Resources

Unless otherwise approved by the City Council, Members shall not use public resources unavailable to the public in general, such as City staff time, equipment, supplies or facilities, for private gain or personal purposes.

12. Representation of Private Interests

In keeping with their role as stewards of the public interest, Members of Council shall not appear on behalf of the private interest of third parties before the Council or any board, committee, commission or proceeding of the City, nor shall members of boards, committees or commissions appear before their own bodies or before the Council on behalf of the private interest of third parties on matters related to the areas of service of their bodies.

13. Advocacy

Members shall represent the official policies or positions of the City Council, board, committee or commission to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, Members shall explicitly state that they do not represent their body or South Jordan City, nor will they allow the inference that they do.

Members, acting in their City capacity, shall always represent the City's official position when speaking with state and local elected officials and staff in regards to any potential legislation or action of a given entity (including state and county). The City's official position is the majority vote of the City Council. When an issue is raised and action on that issue will be taken prior to the next regular meeting of the City Council, the unanimous opinion of the three individuals appointed to the Utah League of Cities and Towns Legislative Policy Committee (LPC) is the City's official opinion.

14. Policy Role of Members

Members shall respect and adhere to the Council-manager structure as adopted by ordinance of the South Jordan City government. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by the public, boards, committees, commissions, and City staff.

15. Independence of Boards, Committees and Commissions

Because of the value of the independent advice of boards, committees, and commissions to the public decision-making process, Members of Council shall refrain from using their position to unduly influence the deliberations or outcomes of board, committee and commission proceedings.

16. Positive Work Place Environment

Members shall support the maintenance of a positive and constructive work place environment for City employees and for citizens and businesses dealing with the City. Members shall recognize their special role in dealing with City employees to in no way create the perception of inappropriate direction to staff.

17. Implementation

As an expression of the standards of conduct for members expected by the City, the South Jordan City Code of Ethics is intended to be self-enforcing. It therefore becomes most effective when Members are thoroughly familiar wit it and embrace its provisions.

For this reason, ethical standards shall be included in the regular orientation for candidates for City Council, applicants to board, committee and commissions, and newly elected and appointed officials. Members entering office shall sign a statement affirming they read and understood the South Jordan City Code of Ethics. In addition, the Code of Ethics shall be annually reviewed by the City Council, boards, committees, and commissions, and the City Council shall consider recommendations from boards, committees, commissions, and the staff to update it as necessary.

18. Compliance and Enforcement

The South Jordan City Code of Ethics expresses standards for ethical conduct expected of Members of the South Jordan City Council, boards, committees, and commissions. Members 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 chairs of boards, committees, and commissions and the Mayor, have the additional responsibility to intervene when actions of Members that appear to be in violation of the Code of Ethics are brought to their attention.

The City Council may impose sanctions on Members whose conduct does not comply with the City's ethical standards, such as reprimand, formal censure, loss of seniority or loss of committee assignment.