



ANATOMY OF A COUNCIL MEETING

Prepared by

League of Arizona Cities and Towns
1820 West Washington Street
Phoenix, Arizona 85007
(602) 258-5786
www.azleague.org

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League of Arizona
Cities AND Towns

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SECTION 1. PREPARING FOR A COUNCIL MEETING

1.1. CALLING A REGULAR MEETING

State law requires that cities and towns, by ordinance, specify when their regular meetings will be held.¹

1.2. CALLING A SPECIAL MEETING

Special meetings may be called by the mayor; in some cities and towns, an ordinance or council procedure may also specify that a certain number of councilmembers (often three) may call a special meeting.

1.3. COMPLYING WITH THE NOTICE REQUIREMENTS PRIOR TO THE MEETING

Council meetings must comply with Arizona's Open Meeting Law ("OML").² The OML contains specific notice requirements to protect the public's right to attend and to listen to the deliberations and proceedings of public bodies.³ A council obstructs this right when it holds discussions, deliberates, proposes legislation, or takes legal action *outside* of a properly noticed open meeting or on matters not properly noticed on an open meeting agenda.⁴

Providing the public as much notice in advance is key. "Notice enables members of the public to attend public meetings by informing them of when and where to go, and how to get information regarding the matters under consideration."⁵ At a minimum, a public body must provide its notice and agenda at least 24 hours in advance, absent an emergency.⁶ If a public body chooses to hold a remote meeting, then the public body should follow best practices and provide as much advance notice.

Some cities and towns have adopted additional notice requirements in their charters, ordinances, or council procedures. Providing proper notice enables members of the public to attend public meetings by informing them of when and where to go, and how to get information regarding the matters under consideration.

1.3.1. POSTING THE DISCLOSURE STATEMENT

A "disclosure statement" must be posted on the city or town website⁷ that identifies the physical and electronic locations where public notices of the meetings will be displayed.⁸ The physical and electronic locations identified in the disclosure statement must be places to which the public has reasonable access.⁹ The city/town clerk is responsible for preparing and posting the disclosure statement. A sample disclosure statement is provided in **Appendix A**.

1.3.2. POSTING THE MEETING NOTICE & AGENDA INFORMATION

Once the disclosure statement has been posted, the second step is to give at least **24-hour public notice** of each public meeting by posting a copy of the meeting notice on the city or town website, as well as any other location identified in the disclosure statement.¹⁰ This notice must include the **meeting agenda** or information on how the public may obtain a copy of the agenda.¹¹ The city/town clerk is usually responsible for preparing and posting the meeting notices and agendas. A sample agenda is provided in **Appendix B**.

The agenda must describe the specific matters to be discussed, considered, or decided at the meeting.¹² The public body cannot discuss, consider, or make decisions on matters that are not listed on the agenda.¹³

When a meeting includes an executive session item, the agenda is only required to include a *general description* of the item.¹⁴ While the general description must provide more than just a recital of the statutory provisions authorizing the executive session, the description should avoid details that could compromise attorney-client privilege; defeat the purpose of the executive session; or violate the privacy interests of a public officer, appointee, or employee.¹⁵

The process for adding items to the agenda is usually set forth in local code, charter, or council procedures. In some cities and

1 See A.R.S. §38-431.02.

2 See A.R.S. §§38-431 to -431.09.

3 A.R.S. §38-431.01(A). "The OML is intended to open the conduct of government business to public scrutiny and prevent public bodies from making decisions in secret." *Ariz. Att'y Gen. Op. 105-004* (citing *Karol v. Bd. of Educ. Trs.*, 122 Ariz. 95 (1979)); see also A.R.S. §38-431.09.

4 See A.R.S. §§38-431.01(A) (stating that all legal action must occur during a public meeting); 38-431.02(H) (stating that a public body may only hold discussions or take legal action concerning items on an agenda).

5 See generally, *Arizona Agency Handbook*, Ch. 7, Sec. 7.61 (Ariz. Att'y Gen., 2018).

6 See A.R.S. 38-431.02(C), (G).

7 The disclosure statement can also be posted on the League's website. See A.R.S. §38-431.02(A)(4).

8 See A.R.S. §38-431.02(A)(4)(a).

9 *Carefree Improvement Ass'n v. City of Scottsdale*, 133 Ariz. 106, 111 (App. 1982).

10 See A.R.S. §38-431.02(A)(4)(b). The Open Meeting Law generally requires at least 24-hour advance notice of each public meeting to the public body and to the public except as provided in subsections D and E of A.R.S. §38-431.02. See A.R.S. §38-431.02(B), (C). The 24-hour period includes Saturdays if the public has access to both the physical posted location and the website posting, but it excludes Sundays and other holidays prescribed in A.R.S. §1-301. See A.R.S. §38-431.02(C).

11 A.R.S. §38-431.02(G). The meeting agenda must be available to the public at least 24 hours before the meeting, except in the case of an actual emergency under A.R.S. §38-431.02(D). See A.R.S. §38-431.02(G).

12 See A.R.S. §38-431.02(G), (H).

13 See A.R.S. §38-431.02(H). A.R.S. §38-431.02(D) provides a very limited exception in the case of an *actual* emergency. Cities and towns should discuss this exception with their attorneys.

14 See A.R.S. §38-431.02(B), (D), (I), (J). The "general description" of an executive session item should be reviewed by the city or town attorney.

15 See A.R.S. §38-431.02(I).

towns, the mayor decides what items will be on the agenda in consultation with the manager. Other cities and towns may allow one council member or minimum number of councilmembers (e.g., 3 or more) to add items to the agenda in consultation with the manager.

1.4. REVIEWING THE ATTORNEY GENERAL'S OPEN MEETING LAW MATERIALS PRIOR TO THE MEETING

At least one day prior to taking office, Arizona's Open Meeting Law requires every elected and appointed official to review the open meeting law materials prepared and approved by the attorney general.¹⁶

1.5. REVIEWING THE AGENDA AND PREPARING FOR THE MEETING

Each member of the council should also make it a personal priority to review each meeting agenda and accompanying materials prior to the meeting. Council procedures usually specify when the agenda will be distributed to councilmembers, which should allow for sufficient review time. Councilmembers with questions or concerns about agenda items are strongly encouraged to contact the manager (or person designated by the manager) before the meeting to avoid playing "gotcha" with the staff.¹⁷ If possible, councilmembers also should discuss legal questions with the city/town attorney before the meeting to avoid issues surrounding attorney-client privilege.

1.6. ENSURING ACCESS TO THE PUBLIC MEETING

Arizona's Open Meeting Law requires all public meetings (both in-person and virtual¹⁸) to be accessible to members of the public.¹⁹ "Accessible" means individuals must be able to "listen" and "participate" in the meeting.²⁰

Audience members should be able to hear the proceedings, which may require microphones and speakers. The size of the meeting space should be able to accommodate all members of the public who wish to attend. Reasonable accommodations also must be provided to individuals with disabilities. If an overflow crowd is expected, additional preparations should be made; such as, moving the meeting to a larger space or arranging for online streaming of the meeting. The meeting setup should be sufficiently formal to indicate that the public's business is being conducted in a proper manner. Name placards should be placed at each council seat identifying by name the mayor and each member

of the council so that the public can know the name of each member speaking.

If a public body chooses to hold a remote meeting, then the public body should follow best practices and provide as much advance notice as is reasonably practicable. The Attorney General has provided the following examples:

- Post a statement on its website informing the public that a meeting will be held remotely through technological means;
- Provide a website location for a video conference and post directions on how to access a meeting;
- Provide a conference call number for telephonic meetings; or
- Provide technical support for questions, concerns, or difficulty accessing a meeting.²¹

Starting October 30, 2023, municipalities are also required to provide, when feasible, sufficient seating to accommodate the reasonably anticipated attendance at the public meeting; however, cities and towns are not required to relocate the meeting beyond the municipality's largest regular meeting room.²²

SECTION 2. OVERVIEW OF A COUNCIL MEETING

2.1. FOLLOWING RULES OF PROCEDURE & PROPER DECORUM

It is up to every council to establish rules for the conduct of its meetings. Some councils adopt standard rules, such as Robert's Rules of Order or some other rules of parliamentary procedure; and others develop their own customized rules. Local rules are valid so long as they don't infringe on constitutional rights or conflict with state law.²³

Proper decorum must be observed by councilmembers during meetings. For example, members should raise their hands (or otherwise indicate to the mayor that they wish to be recognized for discussion of an issue) and wait until they are recognized before speaking. The mayor and council are conducting the business of the public. Accordingly, they should treat each other with respect and conduct themselves in a way that indicates the seriousness of their task.

16 You can access the Attorney General's open meeting law materials here: <https://www.azag.gov/complaints/omlet/omlet-info>.

17 In some cities and towns, a work session may be held prior to a meeting to address questions from council about agenda items and to allow for an in-depth briefing.

18 The OML permits a public body to hold a remote meeting through technological means. See generally *Arizona Agency Handbook*, Ch. 7, Sec. 7.10 (Ariz. Att'y Gen., 2018); Ariz. Att'y Gen. Op. 108-008 ("after providing proper notice and an agenda in accordance with the Open Meeting Law and implementing procedures designed to safeguard the public's access to the meeting, a public body can conduct an online meeting to allow deliberation and discussion about matters within the public body's jurisdiction"); see also Ariz. Att'y Gen. Op. 120-002 (March 13, 2020).

19 See A.R.S. § 38-431.01(A).

20 See A.R.S. § 38-431.01(A).

21 See Ariz. Att'y Gen. Op. 120-002. The instructions should also require the participants to mute themselves to avoid background noise and the speakers to identify themselves each time they speak.

22 A.R.S. §38-431.01(B) (This requirement was added by SB1270 and becomes effective October 30, 2023).

23 We recommend adopting your own parliamentary rules because the Robert's Rules of Order publication were not written with municipal governments in mind. Procedures should include the basic rules on how the meeting will be conducted. They can also address other rules, such as proper council decorum and other matters.

The mayor, as presiding officer, holds the key to an effective council meeting that runs smoothly and effectively. The presiding officer not only participates in the meeting but also manages the process and the people involved. The duties of the presiding officer (e.g., mayor) at a public meeting are to:

- Open the meeting on time²⁴ and call the meeting to order.
- Announce the items on the agenda.
- Recognize members for motions and statements.
- Allow audience participation at the appropriate times and in accordance with the rules.
- State and vote on all legitimate questions that arise during the meeting. If a motion is out of order, the mayor should rule it out of order.
- Protect the council from frivolous motions.
- Enforce the rules of debate, ensure speakers limit their remarks to the item being considered, and keep order at the meeting.
- Expedite business in a way that is consistent with the rights of all the members of the public body.
- Decide questions of order.
- Respond to inquiries of the members.
- Declare the meeting adjourned.

The mayor should become familiar with legal meeting requirements imposed by state law. This includes knowing voting and adoption procedures for ordinances, voting and resolutions, when executive sessions are appropriate, and what is involved in a quasi-judicial hearing when applicable. The city or town attorney can help with these matters but knowing the basics will help save time and avoid illegal or invalid actions.

2.2. TYPICAL STRUCTURE OF A MEETING AGENDA

2.2.1. CALL TO ORDER

The mayor will start the meeting by calling the meeting to order by saying “*The meeting of the City/Town Council of _____ is called to order.*”²⁵

2.2.2. ROLL CALL

In most cities and towns, the roll call will be handled by the city/town clerk. The clerk will announce each councilmember’s name and each member will acknowledge their presence by saying “present.”²⁶

2.2.3. PLEDGE OF ALLEGIANCE (OPTIONAL)

Starting a meeting with a pledge of allegiance is customary but not required.

2.2.4. INVOCATION, LEGISLATIVE PRAYER, OR MOMENT OF SILENCE (OPTIONAL)

A public meeting can include an invocation, legislative prayer, or moment of silence. For example, the Mesa City Council and Bisbee City Council perform a moment of silence, sometimes on a specific topic (e.g., to appreciate first responders). Flagstaff reads the city’s mission statement. Some municipalities invite members of the community to deliver an invocation or legislative prayer. When including a legislative prayer on the agenda, it is important to follow certain parameters to avoid violating the First Amendment.²⁷

2.2.5. CALL TO THE PUBLIC (OPTIONAL)

A public body *may*²⁸ make an open call to the public during a public meeting, subject to reasonable time, place, and manner restrictions, to allow individuals to address the public body on any issue within the jurisdiction of the public body.²⁹ After a call to the public has concluded, individual members of the public body *may*³⁰ respond to a member of the public in one of three ways:

1. respond to criticism made by those who have addressed the public body;
2. ask staff to review a matter; or
3. ask that a matter be put on a future agenda.³¹

Members of the public body cannot respond during the call to the public—they can only respond at the conclusion of the call to the public.³²

24 The meeting cannot begin earlier than the time listed on the public notice or agenda.

25 In the absence of the mayor, the vice mayor usually calls the meeting to order. In the absence of both, the city/town clerk may call the meeting to order unless another member of the council is serving in the absence of the mayor and vice mayor, or if a different procedure is specified in the council procedures.

26 If the city or town is holding a hybrid meeting (in person & virtual), the meeting minutes should specify whether a councilmember attended in person or virtually.

27 Please discuss legislative prayers with your city/town attorney. See, e.g., *Town of Greece v. Galloway*, 572 U.S. 565 (2014).

28 Although the Open Meeting Law permits the public to attend public meetings, it does not require a call to the public on the agenda. See *Ariz. Att’y Gen. Op. No. 178-001*.

29 See A.R.S. §38-431.01(H). *Ariz. Att’y Gen. Op. 122-003 (R20-002)*.

30 See *Ariz. Att’y Gen. Op. 122-003 (R20-002)*: “A public body cannot override the Legislature’s purposeful decision to grant each individual member of a public body with discretion to decide whether and how to respond—within the statutory constraints—to a public comment made during a call to the public. Allowing a public body to do so would effectively nullify the statutory language granting discretion to individual members and instead allow a public body to make the decision whether to respond to public comment, including by prospectively prohibiting a response in any circumstance. Thus, a public body that has enacted a rule or practice prohibiting individual members from responding in a manner described in A.R.S. § 38-431.01(H) must rescind or modify the rule or practice to make it consistent with Arizona law.”

31 See A.R.S. §38-431.01(H). See also *Ariz. Att’y Gen. Op. 122-003 (R20-002)*.

32 See A.R.S. §38-431.01(H). See also *Ariz. Att’y Gen. Op. 122-003 (R20-002)*: “[An] individual member’s ability to respond to public comment is not unlimited. The Legislature provided individual members the discretion to do so only at the conclusion of a call to the public and not after each individual speaker. Moreover, the ability to respond is limited only to (1) responding to criticism, (2) asking staff to review a matter, and (3) asking for a matter to be added to a future agenda. And the [statute] does not allow the public body to engage in a discussion or take legal action unless the matter is specifically listed on the agenda.” (citations omitted).

Members of the public body are prohibited from discussing or taking legal action on matters raised during an open call to the public (unless a matter is properly noticed for discussion and legal action).³³

Speakers should be allotted the same pre-determined amount of time to speak. Most cities require persons wishing to address the council in person to complete a “speaker card” located outside the council chambers and deliver the card to the clerk prior to the meeting. This allows the clerk to, among other things, make sure each speaker has an opportunity to speak and to properly record the speaker’s name in the minutes.

During the call to the public, councilmembers are prohibited from discussing or taking legal action on matters raised during an open call to the public until the matters are properly placed on a future agenda.³⁴ At the conclusion of the call to the public, however, a council member may respond to specific criticism, ask staff to review an item or ask that an item be placed on a future agenda, but the council member cannot dialogue with the member of the public or the other members of council.³⁵

2.2.6. PROCLAMATIONS (OPTIONAL)

Proclamations designate a day, week, or month that recognizes a particular group, person, cause or other honorary occasion.³⁶

2.2.7. MAYOR & COUNCIL REPORT ON CURRENT EVENTS (OPTIONAL)

The mayor or a member of the council may report on current events.³⁷ During this time, the council cannot propose, discuss, deliberate, or take legal action on any matter. The report is merely a summary of events with no feedback allowed.

2.2.8. MANAGER REPORT ON CURRENT EVENTS (OPTIONAL)

The city or town manager may report on current events.³⁸ During this time, the council cannot propose, discuss, deliberate, or take legal action on any matter. The report is merely a summary of events with no feedback allowed.

2.2.9. BOARD, COMMISSION, AND COMMITTEE REPORT ON CURRENT EVENTS (OPTIONAL)

Boards and commissions may report to the council on current events.³⁹ During this time, the council cannot propose, discuss, deliberate, or take legal action on any matter. The report is merely a summary of events with no feedback allowed.

If properly listed on the agenda as a separate item, councilmembers may take action to appoint one or more individuals to a board, commission, or committee.

2.2.10. ITEMS FOR DISCUSSION/POSSIBLE LEGAL ACTION

The agenda must list all the items for discussion and possible legal action by the council. The description of each item must be sufficient to inform a member of the public as to the subject to be discussed and possible action to be taken.

A procedural motion is one that governs the way the meeting is conducted, whereas a substantive motion is a motion on a particular topic or issue.⁴⁰ Most rules of procedure share common requirements.⁴¹ For example, when councilmember wishes to make a motion, the presiding officer must first recognize the councilmember’s right to speak. The councilmember may then make the motion, beginning with the phrase, “I move...”. Typically, a second is then required. After the motion and second, the presiding officer repeats the motion and opens the floor to discussion of the motion. The maker of the motion speaks first, and the presiding officer allows proponents and opponents to alternate speaking if possible. A member who has not yet spoken has precedence over those who have already voiced an opinion. The presiding officer has the authority to end discussion if it becomes too personal or too longwinded.

Handling an agenda item will typically look like this:

- The presiding officer (e.g., the mayor) **introduces** the agenda item and briefly describes the subject to be discussed.⁴² (“The next item on the agenda is approval of _____. Do we have a motion?”)
- Councilmember A asks to be recognized (“Mayor, I would like to make a motion...”)
- The mayor recognizes Councilmember A.
- Councilmember A makes a **formal motion** (“I move to approve _____”);
- Councilmember B **seconds** the motion (“I second the motion”); and
- The presiding officer repeats the motion and **opens the floor to discussion** (“The motion before you is _____. Councilmember A, would you like to speak on this item?”)
- The item is discussed.

33 See Ariz. Att’y Gen. Op. 122-003 (R20-002).

34 See A.R.S. §38-431.01.

35 See A.R.S. §38-431.01(H). See also Ariz. Att’y Gen. Op. 122-003 (R20-002).

36 Any proclamation must be listed as a separate item on the agenda.

37 Any report must be listed as a separate item on the agenda.

38 Any report must be listed as a separate item on the agenda.

39 Any report must be listed as a separate item on the agenda.

40 A substantive motion is used to approve an ordinance, policy, or resolution.

41 If you are unsure which rules are followed by your city or town, check with your city/town attorney or clerk.

42 Discussion of the item may begin with a presentation by staff and/or a public hearing, followed by a council discussion. See Section 2.3 regarding conflicts of interest.

- The mayor closes the discussion and puts the motion to a vote. (*"If there is no further comment, I will close the discussion."*)
- A **vote** is taken on the motion (The mayor may say: *"The council will now vote on ____; will the clerk please call the roll? ... All those in favor say aye. All those against say no."*)
- The vote is announced by the mayor. (*"The ayes have it. The motion passes."*)

Approval of the ordinance or resolution typically requires a majority vote unless a greater number is required by state law or a local ordinance.⁴³

2.2.10.1. CONSENT AGENDA ITEMS (OPTIONAL)

Most cities and towns use a "consent agenda" to streamline council meetings by collecting and grouping certain routine, procedural, or noncontroversial items that can be approved by the council without council discussion and without a public hearing.⁴⁴ A single motion can approve all the items listed on the consent agenda. Any single member of the council may remove any item from the consent agenda for council discussion. Any item that is removed from the consent agenda is discussed and voted upon separately. Examples of consent agenda items may include the approval of minutes, approval of a contract, and other routine matters.

The process for adding or removing items from a consent agenda is usually set forth in the local code, charter, or council procedures. The process typically authorizes the manager, clerk, director, or a special committee of the city or town to make the determination of which items will be placed on the consent agenda. Additionally, the process typically allows a council member at the meeting to request that an item be removed from the consent agenda. If removed, the item is subject to individual discussion and a separate vote.

2.2.10.2. PUBLIC HEARING ITEMS

Prior to action on certain issues, a public hearing may be required by state law and/or your local code. Special public notice also may be required for certain items (e.g., zoning). The mayor and council may hold a public hearing on other issues as well.

A variety of procedures are used to make public hearings productive including individual and overall time limits. These should be specified in the council procedures, and the same rules should apply to all public hearings. Members of the council should be cautious in declaring their position until the hearing is concluded, and the item is up for action by the council, particularly when a public hearing is required on certain zoning issues.

2.2.11. EXECUTIVE SESSIONS (OPTIONAL)

On a majority vote⁴⁵ of the members constituting a quorum, a public body may hold an executive session (closed session) for the following purposes:

1. Discussion or consideration of employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of a public officer, appointee or employee of any public body, except that (with the exception of salary discussions) an officer, appointee or employee may demand that the discussion or consideration occur at a public meeting.⁴⁶
2. Discussion or consideration of records exempt by law from public inspection, including the receipt and discussion of information or testimony that is specifically required to be maintained as confidential by state or federal law.⁴⁷
3. Discussion or consultation for legal advice with the attorney or attorneys of the public body.⁴⁸
4. Discussion or consultation with the attorneys of the public body to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted to avoid or resolve litigation.⁴⁹
5. Discussions or consultations with designated representatives of the public body to consider its position and instruct its representatives regarding negotiations with employee organizations regarding the salaries, salary schedules or compensation paid in the form of fringe benefits of employees of the public body.⁵⁰

43 See A.R.S. §38-503(A), (B). Some cities and towns require more than one reading of an ordinance; absent such a requirement an ordinance can be introduced and passed at the same meeting. Check your local code and, if applicable, your local charter.

44 Some items may not be appropriate for the consent agenda, such as zoning items that require a public hearing. Cities and towns should discuss the legal requirements with their attorneys.

45 Before recessing into executive session, the council must vote to hold the executive session. Some councils vote to approve the executive session immediately prior to convening, while others include such authorization on the previous agenda. Timing of when to hold the executive session should also be considered. If no action is to be taken on items discussed during the executive session, you may want to schedule it for the end of the meeting after all other business is concluded so that members of the public do not have to wait for the regular meeting to reconvene.

46 See A.R.S. §38-431.03(A)(1). The public body must provide the affected officer, appointee, or employee with written notice of the executive session at least twenty-four hours prior to the meeting so the individual can determine whether the discussion or consideration should occur at a public meeting. See A.R.S. §38-431.03(A)(1).

47 See A.R.S. §38-431.03(A)(2).

48 See A.R.S. §38-431.03(A)(3).

49 See A.R.S. §38-431.03(A)(4).

50 See A.R.S. §38-431.03(A)(5).

6. Discussion, consultation, or consideration for international and interstate negotiations or for negotiations by a city or town, or its designated representatives, with members of a tribal council, or its designated representatives, of an Indian reservation located within or adjacent to the city or town.⁵¹
7. Discussions or consultations with designated representatives of the public body to consider its position and instruct its representatives regarding negotiations for the purchase, sale, or lease of real property.⁵²
8. Discussion or consideration of matters relating to school safety operations or school safety plans or programs.⁵³
9. Discussions or consultations with designated representatives of the public body to discuss security plans, procedures, assessments, measures, or systems relating to, or having an impact on, the security or safety of buildings, facilities, operations, critical infrastructure information and information technology maintained by the public body. Records, documentation, notes, or other materials made by, or provided to, the representatives pursuant to this paragraph are confidential and exempt from public disclosure Arizona's Public Record Laws.⁵⁴

Discussions made at executive sessions (and the minutes) must be kept confidential. Under very limited circumstances, executive session information may be shared with:

1. Those members of the public body who attended the executive session.
2. An officer, appointee or employee who was the subject of discussion or consideration regarding their employment, assignment, appointment, promotion, demotion, dismissal, salary, discipline, or resignation.
3. The auditor general on a request made in connection with an audit that is authorized by law.
4. A county attorney or the attorney general when investigating alleged violations of Arizona's Open Meeting Law.⁵⁵

State law also requires the public body to instruct persons who are present at an executive session regarding the confidentiality requirements under state law.⁵⁶

Each executive session must be listed as an item on the agenda. The agenda item must also state the section of A.R.S. §38-431.03 that authorizes the topic to be discussed and include sufficient

information to tell the public in general terms what will be discussed. Since it is not always clear whether a council will require an executive session item, please discuss the agenda language with your city/town attorney.

No legal action can be taken during an executive session except that the public body may instruct its attorneys or representatives regarding certain matters.⁵⁷ If action is desired related to an executive session item, the item must be listed separately on the meeting agenda for action.

Legal action involving a final vote or decision shall not be taken at an executive session, except that the public body may instruct its attorneys or representatives regarding certain matters. A public vote shall be taken before any legal action binds the public body.

2.2.12. ADJOURNMENT

Unless your rules of procedure specify otherwise, the mayor may adjourn the meeting, or a member of the council may make a motion to adjourn, another member may second that motion, and the council may vote to adjourn.

A meeting can also be continued provided that the time and place of the reconvened meeting is announced before adjournment and additional notice is given.

2.3. CONFLICTS OF INTEREST

If the mayor or councilmember has a **conflict of interest** on an item, the individual must declare the conflict, leave the dais, and refrain from participating in the matter or influencing the discussion in *any way*.⁵⁸ "The object of conflict-of-interest statutes is to remove or limit the possibility of personal influence which might bear upon an official's decision."⁵⁹ Arizona's conflict of interest statutes, A.R.S. §38-501 et seq., set forth those matters presenting conflicts of interest for public officers and employees. In particular, A.R.S. §38-503 provides in part:

- A. Any public officer or employee of a public agency who has, or whose relative has, a **substantial interest in any contract, sale, purchase or service** to such public agency shall make known that interest in the official records of such public agency and shall refrain from voting upon or otherwise participating in any manner as an officer or employee in such contract, sale or purchase.
- B. Any public officer or employee who has, or whose relative has, a **substantial interest in any decision** of a public agency shall make known such interest in the official

51 See A.R.S. §38-431.03(A)(6).

52 See A.R.S. §38-431.03(A)(7).

53 See A.R.S. §38-431.03(A)(8).

54 See A.R.S. §38-431.03(A)(9).

55 See A.R.S. §38-431.03(B).

56 See A.R.S. §38-431.03(C).

57 See A.R.S. §38-431.03(D), (A)(4), (A)(5), (A)(7) (e.g., contracts, negotiations).

58 See Ariz. Att'y Gen. Op. I03-005.

59 See *Yeiman v. Naumann*, 16 Ariz. App. 314, 317 (Ariz. Ct. App. 1972).

records of such public agency and shall refrain from participating in any manner as an officer or employee in such decision.⁶⁰

A "substantial interest" is "any nonspeculative pecuniary or proprietary interest, either direct or indirect, other than a remote interest."⁶¹ State law defines a "remote interest" to mean only 12 specifically recognized interests.⁶² The determination of whether there is a substantial interest must be made on a "case-by-case" basis.⁶³

Once the public officer or employee has disclosed the conflict of interest and withdrawn from participation in the matter, the employee or officer must not communicate about the matter with anyone involved in the decision-making process to avoid violating state law and the appearance of impropriety.⁶⁴ Even if public officers and employees believe they can be objective in making a decision and that the public interest would not be harmed by their participation, they do not have discretion to ignore the statutory mandate.

Cities and towns must "maintain for public inspection in a special file all documents necessary to memorialize all disclosures of conflicts of interests."⁶⁵ Any public officer or employee who has a conflict of interest in any decision or in the award of a contract must provide written disclosure of that interest in the agency's special conflict of interest file.⁶⁶ The officer or employee may either file a signed written disclosure statement fully disclosing the interest or file a copy of the official minutes of the city or town that discloses the interest.⁶⁷

Arizona's conflict of interest statutes are broadly construed in favor of the public, and the Legislature has provided substantial civil and criminal penalties for failure to comply with the statutory mandates. For example:

- Knowingly or intentionally violating any provision of the conflict-of-interest laws is a **class 6 felony**.⁶⁸
- Negligent or reckless violation of the law is a **class 1 misdemeanor**. This means that public officers or employees

may be prosecuted if they fail to disclose a conflict of interest of which they should have known.⁶⁹

- Knowingly falsifying, concealing, or covering up a material fact as part of a scheme to defraud in any matter related to the business conducted by a state agency or any political subdivision of the state is a **class 5 felony**.⁷⁰
- Upon conviction of a violation of the conflict-of-interest laws, a public officer or employee **forfeits the public office or employment**.⁷¹
- Any contract entered by a public body in violation of the conflict-of-interest laws is **voidable** at the option of the city or town.⁷² A city or town may also recover any consideration or payments that it has paid under the contract, without restoring the benefits received by the city or town under the contract.⁷³
- Any person who is affected by a city or town's decision made in violation of the conflict of interest laws may sue to have the contract or decision declared null and void.⁷⁴ The court may award costs and attorney's fees to the prevailing party.⁷⁵ Persons claiming that a public officer, employee, or board member had a pecuniary interest in making a decision against them may also file suit in state or federal court alleging a violation of their civil rights pursuant to 42 U.S.C. §1983.

What should councilmembers do when they are unsure whether they have a conflict of interest? Councilmembers should obtain a legal opinion from their city/town attorney.⁷⁶

2.4. IMPROPER PERSONAL GAIN

Public officers and employees are also prohibited from using or attempting to use their official position to secure valuable things or benefits for themselves that would not be part of their normal compensation for performing their duties.⁷⁷

60 See A.R.S. §38-503(A), (B). In addition, public officers and employees are prohibited from supplying to any equipment, material, supplies or services to the city, or town, unless pursuant to an award or contract let after public competitive bidding, except that cities and towns may purchase through their governing bodies, without using public competitive bidding procedures, supplies, materials, and equipment not exceeding \$300 in any single transaction, not to exceed a total of \$1,000 annually, from a member of the governing body if a written policy for such purchases is approved annually.

61 See A.R.S. §38-502(11).

62 See A.R.S. §38-502(10).

63 See A.R.S. §38-503; see also Ariz. Att'y Gen. Ops. 185-052 and 180-139.

64 See A.R.S. §38-503(A), (B); see also Arizona Agency Handbook, Ch. 8 (Ariz. Att'y Gen., 2018).

65 See A.R.S. §38-509.

66 See A.R.S. §38-503(A), (B).

67 See A.R.S. §§38-502(3). Check with your city/town attorney or clerk regarding the proper disclosure of a conflict of interest.

68 See A.R.S. §38-510(A)(1).

69 See A.R.S. §38-510(A)(2).

70 See A.R.S. §13-2311(A).

71 See A.R.S. §38-510(B).

72 See A.R.S. §38-506(A).

73 See A.R.S. §38-511(E).

74 See A.R.S. §38-506(B).

75 See A.R.S. §38-506(C).

76 Under state law, no public officer is personally liable for acts that were done in their official capacity in good faith reliance on written conflict of interest opinions of a city or town attorney. See A.R.S. §38-446 regarding immunity from personal liability.

77 A.R.S. §38-504(C).

2.5. ANTI-NEPOTISM

It is a Class 2 Misdemeanor for elected and appointed officials to appoint (or to vote for the appointment of) any person to any city or town office, position, or employment that involves the payment of government funds if the person is related to them by affinity or consanguinity within three degrees.⁷⁸

SECTION 3. MEETING MINUTES

Arizona's Open Meeting Law requires written minutes or a recording of all public meetings.⁷⁹ For meetings other than executive sessions, the minutes or recording must include:

1. The date, time, and place of the meeting.
2. The members of the public body recorded as either present or absent.
3. A general description of the matters considered.
4. An accurate description of all legal actions proposed, discussed, or taken, including a record of how each member voted. The minutes must also include the names of the members who propose each motion and the names of the persons, as given, who make statements or present material to the public body and a reference to the legal action about which they made statements or presented material.

The minutes or a recording must be available for public inspection 3 working days after the meeting.⁸⁰

A city or town with a population of more than 2,500 persons must also:

- Within 3 working days after a public meeting (except for subcommittees and advisory committees) post on its website either:
 - A statement describing the legal actions taken by the public body of the city or town during the meeting.
 - Any recording of the meeting.
- Within 2 working days following approval of the minutes, post the approved minutes of city or town council meetings on its website.⁸¹
- Within 10 working days after a subcommittee or advisory committee meeting, post on its website either:
 - A statement describing legal action, if any.
 - A recording of the meeting.

The postings required above for populations greater than 2,500 persons must remain on the city or town website for at least 1 year after the date of the posting.⁸²

As stated in a previous section, special rules apply to executive sessions. While state law requires a public body to provide for the taking of minutes of executive sessions, those minutes are strictly confidential and can only be disclosed to a select group of individuals (see below). These confidential executive session minutes must include:

1. The date, time, and place of the meeting.
2. The members of the public body recorded as either present or absent.
3. A general description of the matters considered.⁸³

Any disclosure of the executive session minutes is strictly limited to these individuals:

1. Those members of the public body who attended the executive session.
2. An officer, appointee or employee who was the subject of discussion or consideration regarding their employment, assignment, appointment, promotion, demotion, dismissal, salary, discipline, or resignation.
3. The auditor general on a request made in connection with an audit that is authorized by law.
4. A county attorney or the attorney general when investigating alleged violations of Arizona's Open Meeting Law.⁸⁴

Any person receiving executive session information pursuant to this section or section 38-431.06 shall not disclose that information except to the attorney general or county attorney, by agreement with the public body or to a court in camera for purposes of enforcing this article. Any court that reviews executive session information shall take appropriate action to protect privileged information.

SECTION 4. DEFINITIONS

QUORUM

Quorum means a majority of the members of a city or town council. Thus, if there are seven members of your council, at least four members must be present to conduct business. If there are five members of your council, at least three members must be present to conduct business.

78 A.R.S. §38-481. Nepotism may also be addressed in your local code or a local policy.

79 See A.R.S. §§9-811; 38-431.01; 38-431.03.

80 See A.R.S. §38-431.01(D) (please note that the statute says "except as otherwise specifically provided" by Arizona's Open Meeting Law).

81 See A.R.S. §38-431.01(E) (please note that the statute says "except as otherwise specifically provided" by Arizona's Open Meeting Law).

82 See A.R.S. §38-431.01(J).

83 See A.R.S. §38-431.01(C).

84 See A.R.S. §38-431.03(B). Disclosure of executive session information to the individuals above does not constitute a waiver of any privilege, including the attorney-client privilege. See A.R.S. §38-431.03(F).

LEGAL ACTION

"Legal action" means "a collective decision, commitment or promise made by a public body pursuant to the constitution, the public body's charter, bylaws or specified scope of appointment and the laws of this state."⁸⁵

MEETINGS

Under Arizona's Open Meeting Law, a "meeting":

- Means the gathering, in person or through technological devices, of a quorum of the members of a public body at which they discuss, propose or take legal action, including any deliberations by a quorum with respect to that action.
- Includes:
 - A one-way electronic communication by one member of a public body that is sent to a quorum of the members of a public body and that proposes legal action.
 - An exchange of electronic communications among a quorum of the members of a public body that involves a discussion, deliberation or the taking of legal action by the public body concerning a matter likely to come before the public body for action.⁸⁶

REGULAR MEETINGS

City or town councils usually establish a schedule for regular meetings of the council. Most meet twice a month for regular meetings at a specific time and place. This allows a single notice to be posted both on your website and at the physical location designated for city/town notices. An agenda for the regular meeting must be posted at least twenty-four hours in advance of the meeting. See also the definition of "meeting."

SPECIAL MEETINGS

Special meetings may be called at any time with at least twenty-four hours' public notice. Local ordinance, custom or council procedures usually specify who may call a special meeting in your city or town. An agenda for the special meeting must be posted twenty-four hours in advance of the meeting. See also the definition of "meeting."

WORK SESSIONS

Some cities and towns use the term "work session" to describe a special meeting called to prepare the council for a regular meeting. Such meetings can be helpful particularly when complicated issues are to be considered at a regular meeting that may need extensive discussion or generate multiple questions from members of the council. Work sessions must follow all the requirements under the open meeting law, including those for public notice and the agenda. Some councils distinguish between regular meetings and work sessions in allowing public comment. See also the definition of "meeting."

EXECUTIVE SESSIONS

"Executive session" means "a gathering of a quorum of members of a public body from which the public is excluded for one or more of the reasons prescribed in A.R.S. §38-431.03. In addition to the members of the public body, officers, appointees, and employees as provided in § 38-431.03 and the auditor general as provided in § 41-1279.04, only individuals whose presence is reasonably necessary for the public body to carry out its executive session responsibilities may attend the executive session."⁸⁷

In other words, executive sessions are not open to the public and only the council and individuals necessary to the discussion of the topic may attend. Twenty-four-hour notice requirements still apply, as do agenda requirements although the latter should not be so detailed as to defeat the reason for the executive session.

State law also requires the public body to instruct persons who are present at an executive session regarding the confidentiality requirements under state law.⁸⁸

SECTION 5. OTHER RESOURCES

Several League publications cover the topics discussed in this report in more detail. These publications include:

- You As a Public Official
- Guide To Preparing and Adopting Local Laws
- What All Newly Elected Officials Need to Know
- Arizona Attorney General's Open Meeting Law materials

These publications can be ordered by calling the League of Arizona Cities and Towns at 602-258-5786 or downloaded from the League website at www.azleague.org.

85 A.R.S. §38-431(3).

86 A.R.S. §38-431.

87 A.R.S. §38-431.

88 A.R.S. §38-431.03(C).

Appendix A. Sample Disclosure Statement

City of Chandler: <https://www.chandleraz.gov/government/departments/city-clerks-office/city-council-meetings>

Appendix B. Sample Notice & Agenda

The following is a sample agenda format. Individual cities and towns may have specified the format of their agendas by ordinance or council procedures which may differ from the sample below. Each city and town can design its own agenda format but in the absence of a local model we found this example to be thorough and user friendly.

*CITY/TOWN COUNCIL REGULAR COUNCIL MEETING AGENDA
LOCATION OF MEETING (INCLUDE ADDRESS, NAME OF BUILDING AND ROOM)
DATE AND TIME OF MEETING*

*NAMES OF MAYOR, VICE MAYOR AND MEMBERS OF THE COUNCIL
(INDICATE HERE IF ANY OF THE MEMBERS WILL BE ATTENDING ELECTRONICALLY)*

*ACTION MAYBE TAKEN BY THE COUNCIL ON ANY ITEM LISTED ON THIS AGENDA.
Revisions to the agenda can occur up to 24 hours prior to the meeting. Revised agenda items appear in italics.*

As a courtesy to others, please turn off or put in silent mode all cell phones.

MEETING TIMES

Welcome to a meeting of the City/Town Council of _____. Regular Council meetings are usually held the first and third Tuesday of each month at 7:00 p.m. (Insert dates and time) at the City/Town Hall at the address listed above, although the date or time may change, or Special Meetings may be called at other times and/or places. Contact City/Town Hall, check the City/Town's website or watch for posted agendas for other meetings. This agenda may be revised up to 24 hours prior to the meeting, and a new agenda will be posted in place of this agenda.

SPEAKING AT MEETING

If you are interested in speaking to the Council during Call to the Public, Public Hearings, or other agenda items, you must fill out a speaker card (located in the lobby outside the Council Chambers) and deliver it to the City/Town Clerk prior to the convening of the meeting. Each individual will be limited to _____ minutes for their remarks.

All persons attending the Council meeting, whether speaking to the Council or not, are expected to observe the Council Rules, as well as the rules of politeness, propriety, decorum and good conduct. Any person interfering with the meeting in any way, or acting rudely or loudly, will be removed from the meeting and will not be allowed to return.

ACCESSIBILITY

To better serve the citizens of _____ (name of city or town) and others attending our meetings, the Council Chambers are wheelchair and handicapped accessible. A reasonable accommodation will be made to any person who, by reason of any disability, needs special services because of their disability. Such accommodation will be made upon prior request to the City/Town Clerk at least 10 working days prior to the Council meeting.

AGENDAS

Copies of the agenda are available the day of the meeting in the lobby outside the Council Chambers or online at (insert city or town's website or the League's website and where agendas can be found). For questions about Council meetings, special services or procedures, please contact the City/Town Clerk at (insert telephone number and/or e-mail address).

