

RESOLUTION NUMBER 2020-21

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PARADISE VALLEY, ARIZONA, ADOPTING THE BOARDS AND COMMISSION HANDBOOK

WHEREAS, the Town needs to have a consistent training manual for the training of all board, commission, and committee members;

WHEREAS, Town staff, with input from Council Member Scott Moore, has developed a Board, Commission, and Committee Training Handbook (attached hereto and incorporated herein, the "Handbook");

WHEREAS, the Handbook addresses important topics such as:

1. Volunteer Recruitment, Selection and Appointment;
2. Oaths of Office and Member Roles and Responsibilities;
3. Open Meeting Laws, Public Records Laws, Conflicts of Interest and Other Laws related to Public Service;
4. Agendas and Meeting Packets, Official Minutes & Legal Actions;
5. Conduct of Meetings, including Parliamentary Procedure, Quorum, Motions, Rules of Procedure and By-Laws;
6. Town Code Provisions related to each Town public body; and
7. The General Plan; Council Policy Statements, and related Town Documents.

WHEREAS, the Town Council has reviewed the Handbook contents and concurs with the adoption of the Handbook for use in informing new members of the Town's boards, commissions, and committees of important laws, policies, rules and procedures related to serving as a volunteer on one of the Town's public bodies.

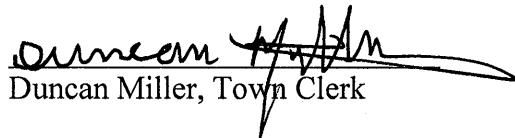
NOW, THEREFORE, BE IT RESOLVED that:

1. The Town Council hereby adopts the Board, Commission, and Committee Handbook for use in informing new members of the Town's boards, commissions, and committees of important laws, policies, rules and procedures related to serving as a volunteer on one of the Town's public bodies.
2. Directs the Town Manager and staff liaisons to the Town's boards, commissions, and committees to distribute the Handbook to all members of the Town's boards, commissions, and committees; as well as to institute regular training of both new and existing members of the Town's public bodies on the particular laws, policies, rules and procedures related to public service on each of the Town's individual public bodies.
3. This Resolution shall take effect thirty (30) days after its adoption.

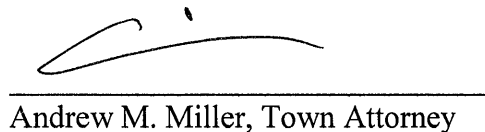
PASSED AND ADOPTED by the Mayor and Council of the TOWN OF PARADISE VALLEY, Arizona, this 25th day of June 2020.


Jerry Bien-Willner, Mayor

ATTEST:


Duncan Miller, Town Clerk

APPROVED AS TO FORM:


Andrew M. Miller, Town Attorney

BOARD, COMMISSION, AND COMMITTEE TRAINING HANDBOOK

UPDATED June 2020



APPENDICES

Board of Adjustment

- Appendix A Staff Contact Information (Board Specific)
- Appendix B Committees and Commissions in General (Town Code Article 2-5-1)
- Appendix C Board of Adjustment (Town Code Article 2-5-3)
- Appendix D Town of Paradise Valley Ethics Policy
- Appendix E “You as a Public Official” by Arizona League of Cities and Towns
- Appendix F Conflicts of Interest Statement
- Appendix G Robert’s Rules of Orders Summary and Cheat Sheet
- Appendix H Board of Adjustment FAQs
- Appendix I Zoning Ordinance (Including Hillside Ordinance)
- Appendix J General Plan
- Appendix K Board of Adjustment Flow Chart
- Appendix L ARS Statutes Pertaining to Board of Adjustment
- Appendix M Application Forms
- Appendix N Variance Criteria

APPENDICES

Planning Commission

- Appendix A Staff Contact Information (Commission Specific)
- Appendix B Committees and Commissions in General (Town Code Article 2-5-1)
- Appendix C Planning Commission (Town Code Article 2-5-2)
- Appendix D Town of Paradise Valley Ethics Policy
- Appendix E “You as a Public Official” by Arizona League of Cities and Towns
- Appendix F Conflicts of Interest Statement
- Appendix G Robert’s Rules of Orders Summary and Cheat Sheet
- Appendix H Planning Commission FAQs
- Appendix I Zoning Ordinance (Including Hillside Ordinance)
- Appendix J General Plan
- Appendix K Visually Significant Corridors Master Plan
- Appendix L Planning Commission Flow Chart
- Appendix M Landscape Guidelines
- Appendix N SUP Guidelines
- Appendix O ASRS Statutes Pertaining to Planning Commission
- Appendix P Application Forms

APPENDICES

Hillside Building Committee

- Appendix A Staff Contact Information (HBC Specific)
- Appendix B Committees and Commissions in General (Town Code Article 2-5-1)
- Appendix C Hillside Building Committee (Town Code Article 2-5-6)
- Appendix D Town of Paradise Valley Ethics Policy
- Appendix E “You as a Public Official” by Arizona League of Cities and Towns
- Appendix F Conflicts of Interest Statement
- Appendix G Robert’s Rules of Orders Summary and Cheat Sheet
- Appendix H Hillside Commission FAQs
- Appendix I Zoning Ordinance (including Hillside Ordinance)
- Appendix J General Plan
- Appendix K Hillside Flow Chart
- Appendix L Landscape Guidelines
- Appendix M Hillside Safety Improvement Measures and Review Process Manual,
- Appendix N Hillside Application and Fee Schedule

SECTION 1. GENERAL

Thank You for Volunteering

Congratulations for being selected by the Town Council to volunteer for appointed office. The Town is fortunate to have so many high caliber individuals willing to volunteer their valuable time. Volunteerism exemplifies the true spirit of Paradise Valley and gives you the opportunity to make a real difference in the Town, share your time and expertise, and connect at a deeper level with the Town.

This handbook has been developed as a reference for volunteer board, commission or committee members while conducting Town business to ensure that you operate within federal, state, and local law, as well as adhering to the Town's philosophies and form of government.

The information in this handbook will provide you with the general knowledge needed to effectively:

- Understand current and applicable laws
- Review, analyze, and decide applications before you
- Use available Town resources
- Participate effectively in public meetings

Form of Government

Paradise Valley was incorporated on May 24, 1961. The Town Council consists of a direct elected Mayor who serves a 2-year term, and six at-large Council Members who serve 4-year staggered terms. One Council Member is selected by the Council to serve as Vice Mayor for a 1-year term.

Paradise Valley operates under the Council-Manager form of local government. Under this model, which is prevalent in Arizona and in the western United States, the Mayor and Council select a full-time professional manager to serve as the chief administrative officer and head of the Town. The Manager is responsible for implementing Council policies, managing staff, preparing the budget, and undertaking other responsibilities as authorized by the Council in the Town Code. Paradise Valley has committed its local government to being inclusive, participative, and transparent.

Town Vision and Values

Paradise Valley is a premier, low-density, residential community that was incorporated based on the conscious decision to preserve the natural desert and to provide for a semi-rural residential community that complements our high-quality resorts, houses of worship, schools, and medical offices. We operate under a limited form of government that relies on community volunteers and strong resident support.

The Town uniquely provides a balance between the powers of local government and individual property rights, while retaining its characteristic low-density residential housing, providing quality public safety and other limited services, preserving natural open spaces and mountain views, ensuring neighborhood-compatible land use decisions, and preserving the quiet enjoyment of our neighborhoods.

The Town of Paradise Valley is characterized by six common values:

- Primarily one-acre, residential community
- Limited government

- Creating a sense of community
- Partnerships with existing schools and resorts to enhance recreational opportunities
- Improving Aesthetics / Creating a Brand
- Preserving natural open space

GENERAL PLAN

A general plan is a publicly adopted long range plan for land use and development, serving as a basis for decision making regarding policies and programs by the Town Council and the town's land use committee's as well as by the town's residents and developers. Arizona state law requires that each municipality adopt a comprehensive general plan to guide the physical development within their community. State law also requires a general plan to be readopted every 10 years. The Town's General Plan was most recently adopted in 2012.

The Town's General Plan contains a vision statement, along with maps, goals, policies, and implementation measures that address issues such as:

- Land Use and Development
- Community Character and Housing
- Mobility
- Open Space and Recreation
- Sustainability
- Public Facilities/Services

SECTION 2. BOARDS, COMMISSIONS, AND COMMITTEES

The Council establishes all advisory Boards, Commissions and Committees. Members are appointed by the Mayor and Council and serve at the pleasure of the Council. These various Boards, Commissions and Committees serve to guide, advise, and/or implement the policies of the Town Council.

Volunteers serve a variety of roles and make decisions that require their valued input. All boards, Commissions and Committees are administrative (with the exception of the Board of Adjustments), but in some cases, the Council may delegate its authority to make final decisions on behalf of the Town.

2.1 Volunteer Recruitment, Selection, and Appointment

Notices of volunteer openings are posted on the Town of Paradise Valley's website with a link to the online application. Additionally, a press release is emailed to the *Paradise Valley Independent*, which often runs articles regarding the volunteer openings and the Town's process for making an application.

Candidates must be residents in the Town and are typically interviewed by the Town Council. Based on background, skill sets and the positions available, applicants may be asked to consider volunteering for another position other than their first choice. Once selected, the Council officially makes the appointment with a motion and vote at a future scheduled business meeting.

2.2 Oath of Office

Prior to the first meeting following appointment, the volunteer will take the Oath of Office administered by the Town Clerk or a Notary Public. This Oath is required by State Law and must be taken (along with signing a written oath that is submitted to the Town Clerk for filing) prior to participating on the various Boards, Commission or Committee.

The Oath is:

I, [volunteer's name], do solemnly swear that I will support the Constitution of the United States and the Constitution and laws of the State of Arizona; that I will bear true faith and allegiance to the same, and defend them against all enemies, foreign and domestic, and that I will faithfully and impartially discharge the duties of [volunteer position] of the Town of Paradise Valley, according to the best of my ability, so help me God.

SECTION 3. ROLES & RESPONSIBILITIES

All *Volunteers* shall:

- Regularly attend meetings and comply with the Town Code requirements for all absences;
- Communicate with the Staff Liaison and/or Chair when unable to attend a meeting;
- Prepare, for each meeting by reviewing the meeting agenda, application materials and agenda packet, any additional information provided, public comments received prior to the meeting and, as necessary, visiting site(s) to assist in understanding an application;
- Become educated on policies, codes, and procedures that apply to the Board, Commission, or Committee;
- Treat citizens, applicants, elected officials, peers, and staff with respect;
- Follow the Board, Commission or Committee, rules of procedure, ethics requirements (Appendix D), Roberts Rules of Order, and parliamentary procedure in general (Appendix G);
- Dress and conduct yourself in a professional manner at public meetings;
- Comply with the Open Meeting Law;
- Declare conflicts of interest and avoid participating in a matter where a conflict exists; and when in doubt about a conflict, contact the Town Attorney in advance of the meeting at which the potential conflict matter will be discussed or acted upon;
- Resign from the Board, Commission or Committee if elected as Mayor or to a Council seat; and
- Not assign work to Town staff.

The *Chair*, in addition to participating in the role of a board, commission, or committee, shall:

- Serve as the presiding officer and facilitate public meetings;
- Communicate meeting processes to the public and to the board, commission, or committee members
- Provide periodic reports or updates to the Council when requested;
- Encourage discussion amongst members and give all members the opportunity to speak in a fair and orderly manner;
- Keep discussions and meetings on track and on time;
- Ensure that all meeting participants are treated with respect; and
- Be knowledgeable with rules and procedures, parliamentary procedures, and appropriate Robert's Rules of Order.

The *Council* shall:

- Establish all boards, commissions, and committees that they deem appropriate to guide, advise, and/or implement Town policies and goals;
- Establish, when desired by the Council, rules and regulations governing the various boards, commissions, and committees;
- Ratify by-laws when applicable;
- Authorize processes for recruiting, interviewing, selecting, and appointing new members to vacant positions;
- Appoint, where Council deems appropriate, a member of the Council to serve as a liaison to a board, commission, or committee; however, by Town Code, the Vice Mayor automatically serves as the Council Liaison to the Planning Commission
- Remove board, commission, and committee members when necessary, in accordance with the Town Code of Paradise Valley, Section 2-5-1.

The *Council Liaison* shall:

- Attend board, commission, or committee meetings, as needed;
- Serve as an ex officio (non-voting) member, when there is a Town Code or resolution authorizing such ex-officio status;
- Provide guidance, support and encouragement;
- Provide regular updates to the Council; and
- Not speak for the Council regarding matters before the various boards, commissions, or committees, unless the Council has formally adopted a Council position or policy in a prior open meeting.

The *Staff Liaison* shall:

- Provide board, commission, and committee members with codes, by-laws, membership lists, and other documents necessary to fulfill their duties;
- Educate and provide guidance on policies, codes, and procedures that are applicable;
- Draft minutes of the meetings for board, commission, or committee review and approval;
- Provide the Town Clerk with agendas or minutes to be posted;
- Secure meeting rooms;
- Consult with the Town Attorney or Town Clerk for guidance on the Open Meeting Law, Conflicts of Interest, Public Records, and other requirements;
- Participate in discussions, provide guidance and subject matter expertise; and monitor member attendance at meetings for compliance with the Code of Paradise Valley, Section 2-5-1(B). (See Appendix B)

The *Town Attorney* shall:

- Assist in ensuring compliance with Open Meeting Law
- Assist members who have questions regarding potential conflicts of interest;
- Provide legal advice as needed on particular matters coming before the board, commission or committee.

The *Town Clerk* shall:

- Post agendas and minutes in accordance with Open Meeting Law and Town Code.
- Manage all Council directed aspects of recruiting and staffing
- Assist, with Town Attorney, providing guidance and respond to questions from the Staff Liaison regarding requirements of the Open Meeting Law, Conflicts of Interest, and Public Records;
- Maintain minutes and other official Town records as such are required to be maintained by law;
- Respond to inquiries together with Staff Liaison and/or Town Attorney from the public, elected officials, and staff;
- Manage removal from office in accordance with the Code of Paradise Valley, Section 2-5-1(B).

SECTION 4. MEETINGS

4.1 Agendas and Meeting Packets

An agenda shall be prepared and posted for all meetings. Meeting packets shall be distributed, prior to a meeting in accordance with Town policy, and these packets may include staff reports and related materials to assist various board, commission, and committee members to prepare for the meeting.

All agendas are posted at the Town Hall facility parking lot and on the Paradise Valley website at least 24 hours prior to the meeting in accordance with the Open Meeting Law.

4.2 Other Gatherings

On occasion, a quorum of a board, commission, or committee members may attend a conference, social event, or similar activity. Members must exercise extreme caution to avoid violations of the Open Meeting Law at such events. These events are not meetings as defined by the Open Meeting Law and are not posted as meetings. Members shall be knowledgeable with all Open Meeting Law requirements (See Appendix E).

4.3 Official Minutes & Legal Actions

Official minutes are prepared for all board, commissions, and committee meetings. These official minutes must include the date, time, and place; members present or absent; a general discussion of the matters discussed; and an accurate description of any actions taken.

A verbatim transcript of meetings is generally not created or made available. Only certain boards, commission, and committees record their meetings with audio, video, or similar media. If meetings are recorded for a use other than the preparation of minutes and are not immediately destroyed upon completion of the minutes, the audio, video, or similar media is a public record and must be maintained and disposed of in accordance with *Paradise Valley's Record Management Standards and Retention Schedules*.

Upon approval and execution of the official minutes, the Staff Liaison or designee is required to immediately submit the original minutes to the Town Clerk. The Town Clerk retains the official minutes as a permanent record.

Per Open Meeting Law requirements cities and towns over a population of 2,500 to maintain a website where they post meeting notices and legal actions on their website platform. The Town of Paradise Valley has such a website and must post approved minutes to the website. Draft minutes or actions posted to the website must be retained on the website for one year.

The Town of Paradise Valley adopted the following practices to comply with these statutory requirements, which ensure consistency between the Council, boards, commissions, and committees so the public can readily access information:

- Agendas and meeting notices are posted at the Town Hall facility parking lot and the Paradise Valley website at least twenty-four (24) hours prior to a meeting as required by the Open Meeting Law.
- Draft minutes are posted to the Town of Paradise Valley website within three (3) working days of

each meeting. These draft minutes contain all legal actions taken. In limited cases, actions are posted in lieu of draft minutes.

- Approved and signed minutes are submitted to the Town Clerk immediately following approval to ensure minutes are posted to the Town of Paradise Valley website within two (2) working days of approval.
- Draft minutes, actions, and approved minutes are maintained on the Town of Paradise Valley website for at least one year after being posted.

4.4 Conduct

All board, commission, and committee members are representatives of the Town. The following information serves as a guide to all members when acting as a representative of the Town:

- Act in a professional manner at meetings when representing the Town, even when diverse ideas and opinions are presented.
- Be aware that publicly-expressed opinions (to the public, press, stakeholders, etc.) by an individual member reflect only the individual's view and may not be represented as a board, commission, or committee statement or position without the approval of a majority of members officially conducted in a public hearing process.
- Never use your position or information in the performance of duty as a means of private profit or to advance the financial interest of others.
- Never give special favors or privileges to anyone.
- Never accept gifts or benefits that could be construed by reasonable persons as influencing the performance of official duties. Any gifts accepted must be reported in accordance with the *Town of Paradise Valley Ethics Policy* (Appendix C).
- Exercise caution to avoid making statements that might be construed as promises or binding upon the duties of office.
- Avoid commenting upon negotiations entered into by the Town that involve the purchase or sale to the Town of land, goods, or materials while acting in the capacity of a public official. In the event that this occurs, certain guidelines must be observed. (See Section 7: Conflicts of Interest).

4.5 Parliamentary Procedure

Meetings are generally conducted in accordance with the adopted or approved Board, Commission or Committee rules of procedure and Roberts Rules of Order. Members are expected to understand basic parliamentary procedure. The following provides information regarding basic parliamentary procedure to serve as a guide.

See Appendix G, Robert's Rules of Orders, for Clarification

4.5.1 Quorum

A quorum is the number of members that is necessary to conduct business. In most cases, a quorum constitutes a simple majority of the total number of members specified in the Town Code or other document (sometimes a resolution) that created the particular board, commission or committee. For example, a board with seven members would need four members to constitute a quorum.

4.5.2 Motions

There are a variety of acceptable forms by which to make a motion. It is also important to always

be mindful that with the exception of the Board of Adjustments, motions for approval are administrative in nature. The Council is the only body that has the authority to take legislative actions. The Planning Commission motions are typically a motion to **recommend** to the Council a particular action on a matter, however, there are some actions, such as the granting of a conditional use permit, where the Commission makes the final approval. This is further explained below in the examples provided. The role and formality of the board, commission, or committee will often determine what is most appropriate in each situation. Motions are not required for discussion items but are used to make decisions and recommendations. Motions may also be used to provide direction to staff but are not required. Motions should be clear and concise; such that other members understand the action upon which they are voting.

A motion requires a second to be discussed or considered. In the event that there is no second, the motion is not discussed or considered, and dies for the lack of a second.

Motions are stated in a variety of manners, and are generally proposed with the following phrase:

- I move...
- Move for...
- Motion to...

The following examples show the same action stated in different manners:

- I move for approval based on the recommendation in the staff report
- I move the recommended action in the staff report
- Move for approval of the staff report recommended action
- Move for approval (if the subject has been previously stated with sufficient specificity)
- Motion to approve the action recommended in the staff report, as submitted

The complexity of the role of the board, commission, or committee may also determine the formality and complexity of motions, e.g.:

- Motion to recommend approval to the Council of the rezoning of the "X" based on the findings of fact in Zoning Case 2020-01, and subject to the conditions contained in the draft ordinance
- Move to approve Case 2020-02 with the staff recommendation and (insert additional conditions of approval)
- Move to recommend to the Council the adoption of the proposed 2022 master plan
- For the Board of Adjustment, more specificity should be added to a motion for approval or denial should be made due to its quasi-judicial nature, e.g., "I move we deny variance request 2020-04 as there are no special circumstances that support a variance"

After a motion is seconded, the members may comment upon and/or discuss the proposed action.

Following discussion, the Chair calls for a vote, and announces the results of the vote. Votes can be taken using electronic voting equipment, by voice, by roll call, or by a show of hands.

4.5.3 Amending a Motion

A subsidiary motion can be made to amend a motion to add, substitute, or take away from the original motion. A second is required for a motion to amend.

An amendment might be stated as:

- Move to amend the motion to delete condition xx.
- Move to amend to add a new condition (state condition).

In the event that an amendment is made, the amendment must first be voted upon prior to the main original motion.

If an *amendment passes*, it changes the original motion. A vote on the original motion, as amended, follows.

If an *amendment fails*, there is no change to the original motion. A vote on the original motion is taken.

4.5.4 Reconsideration

Occasionally, a member may feel that an action should be reconsidered and may move to reconsider an agenda item. A member who voted on the prevailing side must request reconsideration. If the motion for reconsideration is approved, the Chair may reopen the item.

Under the Roberts Rules of Order, an item may also be considered on the next day, or at the next meeting. Due to the requirements of the Open Meeting Law, reconsideration at the next meeting must be listed on the agenda. For the Planning Commission, Board of Adjustment, and the Hillside Building Committee, the required timing and procedures for getting a motion to reconsider placed on the agenda on the next business meeting for each of these particular bodies is contained in the Rules of Procedure for each body. A Board, Commission, Committee member who voted on the prevailing side and who requests reconsideration at the next meeting must contact the Staff Liaison so that the item is included on the agenda that is posted in compliance with the Open Meeting Law.

4.6 Subcommittees & Other Committees

Subcommittees and other committees formed or appointed by a board, commission, and committee must comply with the Rules and Procedures established by the Council, or, where provided, by the board, commission, or committee and all Open Meeting Law requirements. The Staff Liaison should contact the Town Clerk to determine whether the Open Meeting Law pertains to the subcommittee or other committee. The Town Clerk consults with the Town Attorney, if necessary.

SECTION 5. LAWS AND OTHER DOCUMENTS

5.1 Town of Paradise Valley Town Code

The Town Code sets forth the local laws and regulations adopted by the Mayor and Council. These laws and regulations are adopted by ordinance.

All board, commission, and committee members are subject to the requirements found in the Town Code, Article 2-5.

A copy of the Town Code, Article 2-5, can be found in Appendix B.

5.2 Council Policy Statements

The Council may establish policies through a Council Resolution. The following Council Policy applies to all boards, commissions, and committees.

Town of Paradise Valley Ethics Policy

The Town of Paradise Valley Ethics Policy establishes standards of conduct for Paradise Valley's public officials. Topics covered in the policy address the responsibilities of public service, procedures, confidential information, code of ethics training, and enforcement.

A complete copy of this policy statement can be found in Appendix C.

5.3 Other Town Codes and Documents

Local laws are also found in codes or documents that have been adopted for a specific purpose. The Town Code contains articles and sections that are often referenced and that can stand independently. These items include but are not limited to the Zoning Ordinance, the Hillside Safety Improvement Measures and Review Process Regulations, the Subdivision Regulations, the Storm Drainage Design Manual, and Special Use Permit Guidelines.

The General Plan is a state-required document that must be updated every 10 years and must be approved by the voters of the Town through an extensive public participation and adoption process. The General Plan is a flexible policy document and is not an ordinance. The Town Council also adopts policy positions through resolutions. It is not uncommon that the Council provide direction to a board, commission, or committee, through the use of a resolution or statement of direction (see Appendix C). The Staff Liaison provides board, commission, and committee members a copy of or link to the Codes or documents necessary to perform their duties.

5.4 State Laws

The Arizona Revised Statutes contain the laws of the State of Arizona. Paradise Valley is a General Law municipality, which means that it does not have a Charter and that its authority is set forth in the laws of the State of Arizona.

Certain boards, commissions, and committees may be subject to other statutory requirements that establish authority and processes. The Planning Commission, Board of Adjustment, Public Safety Personnel Retirement Board, Paradise Valley Mountain Preserve Trust, and the Municipal Property Corporation are just a few that may have additional statutory requirements. The Staff Liaison is responsible to communicate these requirements to each member and to ensure compliance.

5.5 Rules of Procedure and By-Laws

Some of the boards, commissions, and committees have Rules of Procedure that are statutory or have been approved by the Town Council. Others may also have by-laws that contain requirements specific to that particular board, commission, or committee. The rules of Procedure and the by-laws may

include information regarding meetings, quorums, membership, or other matters of procedure affecting the particular board, commission or committee.

The Staff Liaison will provide rules and by-laws, if applicable, and as needed.

5.6 Other Documents

The League of Arizona Cities and Towns created the publication *You as a Public Official*. This publication covers a variety of topics applicable to you. The majority of the information contained in this document may help assist in further training if applicable.

A copy of You as a Public Official can be found in Appendix D.

SECTION 6. OPEN MEETING LAW

It is the policy of the State of Arizona that the public's business be conducted in public. The State Legislature has adopted a law known as the Open Meeting Law that is applicable to public bodies and public officers. To comply with the Open Meeting Law, the Staff Liaison and/or the Town Clerk is responsible for preparing or supervising the preparation of agendas, posting agendas, posting draft minutes or actions, and posting approved minutes.

Boards, commission, and committee members must exercise caution when interacting with other, members in order to avoid violations of the Open Meeting Law. Accordingly, members should not congregate after meetings to discuss the business of the board, commission, or committee after the meeting is adjourned.

The following are typical questions asked about the Open Meeting Law.

1. *What is the Open Meeting Law?*

The policy of the State is that the public's business be conducted in public. The Open Meeting Law requirements contain the rules that public bodies must follow to ensure that this policy is properly carried out. (see Appendix D)

2. *Is my board a "public body" under the Open Meeting Law?*

Yes. All boards, commissions, and committees appointed by the Mayor or the Council are "public bodies" governed by the Open Meeting Law. However, a "committee" appointed by the Town Manager to provide advice only to the Manager would not be considered a "public body." If a department director sets up a committee to research and advise him or her, that committee is also not a "public body."

3. *What is a meeting?*

Any time a quorum of the public body discusses, proposes, or takes legal action related to municipal business, a meeting is being held. "Legal action" includes collective decisions, commitments, or promises of the public body, and does not necessarily include a formal vote. A series of gatherings, conference calls, or e-mails of less than a quorum can result in a "public meeting," especially if a

consensus is reached. A gathering of the quorum may also include occasions when one or more members participate by telephone or video conference. A "meeting" may also result from discussions held over e-mail if a quorum is involved and if a "discussion" is taking place about municipal business. Great care should be taken in the use of e-mail to ensure that you do not violate the Open Meeting Law. If you have any questions regarding whether it is appropriate to exchange email regarding business matters with a quorum of the public body please contact the Staff Liaison or the Town Attorney.

4. *If my board is going to have a meeting, what do we have to do?*

Arizona State law requires that public bodies of the municipality file a statement with the Town Clerk or Mayor's Office stating where public notices of their meetings will be posted, and on the internet. The law also requires that the public body "shall give such additional public notice as reasonable and practical as to all meetings." In addition, meetings may not be held without at least 24 hours' notice to the members of the public body and to the general public. The Town of Paradise Valley, notices of meetings are (for most activities) posted at the following locations:

- Town Hall (parking lot), 6401 E. Lincoln Drive, Paradise Valley, AZ 85253
- Town's website at: <https://paradisevalleyaz.gov/81-Notices-Agendas-Minutes-Summar>

The agenda must include the date, time, and place of the meeting. It must also include an agenda of matters to be discussed or decided at the meeting, or information regarding how the public may obtain a copy of the agenda.

There is a statutory exception to this rule in case of an "actual emergency," in which case the meeting may be held without the required 24-hour notice so long as a notice is posted within 24 hours declaring that an emergency meeting has been held. In that case, the notice must include a discussion of the specific matter considered or decided at the meeting. There are very few circumstances that qualify as an "actual" emergency. Please refer to the Town Attorney for legal guidance for all meetings considered an emergency.

5. *Can we discuss matters not on the agenda?*

Not unless the item to be discussed is about an "actual emergency" (see above).

6. *May there be "communications from citizens" on the agenda?*

Yes, but the agenda must have a specific listing for such "calls to the public" and the member of the public who is speaking is only allowed to address the public body on an issue within the jurisdiction of the public body. The public body may not discuss the matter raised by the member of the public (unless it is on the agenda), but at the conclusion of the open call to the public, individual members of the public body may respond to criticism made by those who have addressed that public body. The public body may ask staff to review a matter brought forth by a member of the public or may ask that the matter be put on a future agenda.

7. *May the agenda include an item permitting individual members of the board, commission, or committee to make a statement or report (without discussion) at the end of the meeting?*

Yes, but only specific to certain board, commission, and committee Rules and Procedures. If applicable, the law does permit the public body to include on the agenda an item to "Report on Current Events" by the Chair, a department director, or other principal staff member in charge of the public body. At that time, the individual may make a report to the public and to the public body. However, the public body may not discuss or take legal action on the matter unless the matter has also been listed on the agenda.

8. *Can my board meet in private, or an executive session?*

Yes and No. Generally, meetings in private are prohibited unless they fit under one of the exceptions contained in the State Statutes for executive sessions. For most boards, commissions, and committees, there will be little justification for entering into an executive session other than to obtain legal advice from the attorney for the public body. In the case of the Town Council, the exceptions for holding an executive session are much broader and more likely to occur.

9. *If we have an executive session, do we have to keep minutes?*

Yes. However, minutes are kept confidential except from members of the public body that met in the executive session and, if the executive session was held for personnel matters, the officers, appointees, or employees who were the subject of discussion.

10. *Can I express my opinion to the news media or discuss an issue with the public if I know that other fellow members may read or hear my comments?*

Yes. The Open Meeting Law does not prohibit a member of a public body from voicing an opinion or discussing an issue with the public, either at a venue other than a public meeting or through news or social media outlets so long as (1) the opinion or discussion is not principally directed at or directly given to another member of the public body, (2) there is no concerted plan to engage in collective deliberation to take legal action, and (3) the member providing the opinion clarifies that it is an individual opinion and not that of the Town. Additionally, the Attorney General's Office has released a statement that a meeting does not occur when members of the public body merely hear or read a comment made by another member of the public body in the media.

11. *What happens if my board, commission, committee or any members violates the Open Meeting Law?*

First, any action that you took in violation of the Open Meeting Law is null and void.

Second, the Attorney General or County Attorney's Office may investigate a complaint alleging violation of the Open Meeting Law and may conduct an investigation. The Attorney General or County Attorney has broad powers to inspect all documents, to require any person to submit a report or make a statement, and to issue investigative demands for the production of documents. If a public body or an officer refuses to cooperate, the Attorney General or County Attorney may go to court to obtain an order for enforcement.

Upon finding that a public officer has violated the Open Meeting Law, a court may impose a civil penalty not to exceed \$500 for each violation against the person who has violated the article or who has knowingly aided, agreed to aid, or attempted to aid another person to violate the Open Meeting Law. If the court determines that a public officer has intended to deprive the public of information, a

court may remove the public officer from the office, and shall assess him with all costs and attorney fees awarded to the plaintiff pursuing the action.

The municipality may not expend public monies to retain legal counsel to provide legal services to the public body or to an officer unless the public body takes legal action at a public meeting to approve the expenditure.

Additional information on the Open Meeting Law is available for your perusal. See Chapter 7 of the Attorney General's Arizona Agency Handbook and the Arizona Ombudsman's Open Meeting Book.

SECTION 7. CONFLICTS OF INTEREST

At times, board, commission, and committee members may need to declare a conflict of interest. The following questions will assist you as you determine whether you have a conflict of interest.

1. How do I know if I, as a member of a public body, have a conflict of interest?

The first question you should ask is whether, in any matter that comes before your board, commission, or committee, do you have a "pecuniary" interest in the outcome of the matter. A pecuniary interest is any matter in which you stand to gain or lose something of value from the decision.

2. If I determine that I have a pecuniary interest in a decision, then what?

You need to determine whether your interest is a "remote interest." A remote interest is any of the following:

- a. The interest of a non-salaried officer of a non-profit corporation.
- b. The interest of a landlord or tenant of the contracting party.
- c. The interest of an attorney of the contracting party.
- d. The interest of a member of a non-profit cooperative marketing association.
- e. The ownership of less than three percent of the shares of a corporation for profit, provided that the total annual income from dividends, including the value of stock options, from the corporation does not exceed five percent of the total annual income of such officer or employee, and that any other payments made to him by the corporation do not exceed five percent of his total annual income.
- f. The interest of a public officer or employee to be reimbursed for actual and necessary expenses incurred in the performance of official duty.
- g. The interest of a recipient of public services generally provided by the incorporated city or town, political subdivision, state department, commission, agencies, body, or board of which the member is a public officer or employee on the same terms and conditions as if he or she were not an officer or employee.

- h. The interest of a public officer, employee, or that of a relative of a public officer or employee, unless the contract or decision involved would confer a direct economic benefit or detriment upon the officer, employee, or his or her relative of any of the following:
 - 1. Another political subdivision;
 - 2. A public agency of another political subdivision; or
 - 3. A public agency, except if it is the same governmental entity.
 - i. The interest of a member of a trade, business, occupation, profession, or class of persons consisting of at least ten members which is no greater than the interest of the other members of the trade, business, occupation, profession, or class of persons.
3. ***If I determine that my pecuniary interest does not fit one of the above exceptions, then what?***

If your pecuniary interest does not fit one of the above exceptions, then you have a "substantial interest." *If the interest fits one of the above exceptions, you do not have a conflict of interest.*

4. ***If I have a substantial interest in a decision or matter coming before my board, commission or committee, what should I do?***

You must not take part in any discussion or action involving that matter. You do not have to resign from the board, commission, or committee. However, you must "make known" your substantial interest in the public records. The Town Clerk will provide a form that you will keep on file. On that form, you must disclose the substantial interest that resulted in your conflict of interest.

5. ***What happens if I violate the conflict of interest laws?***

Any person affected by the decision of the public body may commence a civil suit in Superior Court for the purpose of enforcing the law. The Court may award reasonable attorneys' fees to the prevailing party. Intentionally or knowingly violating the conflict of interest laws is a Class VI Felony. Recklessly or negligently violating the conflict of interest laws is a Class I Misdemeanor. A person found guilty of such negligence may be required to forfeit his or her public office.

SECTION 8. PUBLIC RECORDS

The Town's records are the property of the State of Arizona. State laws require that records be maintained in accordance with the laws, standards, and requirements developed and implemented by Arizona State Library, Archives, and Public Records.

The Arizona Revised Statutes define records as books, papers, maps, photographs, or other documentary materials, regardless of physical form or characteristics, made or received by any governmental agency in pursuance of law or in connection with the transaction of public business. These records include databases and electronic information.

The *Staff Liaison and Town Clerk* are responsible for maintaining all public records.

State laws governing records disclosure and protection of the public's right to know require that the municipality permit the examination and/or reproduction of records.

Agenda packets and other materials provided to boards, commissions, and committees by Town staff are retained by the Town staff if they constitute a record. Members may dispose of the agenda after the meeting. If a member keeps notes on agenda packets and retains these packets, they are subject to disclosure if The Town of Paradise Valley receives a public records request or a subpoena.

Electronic mail (e-mail) may be used to transmit documents or may itself constitute a record. Members must exercise extreme caution in the use of e-mail when communicating with other members to ensure that an improperly documented meeting does not take place. Generally, it is acceptable to disseminate information via electronic mail, but no discussions should occur to avoid the risk that the communication violates the Open Meeting Law. Members who use private e-mail accounts are responsible to forward record e-mails to the staff liaison for retention in conformance with the law. **We encourage you to use the Town provided email address [name@paradisevalleyaz.gov]. An email relating to official business sent through a private email address is still a public record and may result in having to search your private emails for official records should the Town receive a public record request. In the case of a subpoena, use of a personal email address may also result in a request by a litigant to have the right to search of your personal email account for records related to official Town business. Failure to provide official records that may have been sent from a personal email address may also be considered a violation of the Arizona Open Meeting Law.**

SECTION 9. CLOSING SUMMARY

Thank you again for your willingness to volunteer your time and expertise to the Town of Paradise Valley. We hope that you find your experience serving the Town's residents as both engaging and rewarding. Please take the time to read the appendices provided with this packet and reach out to your board, commission, or committee's staff liaison if you have any questions.