



NIBLEY CITY
CITY COUNCIL MEETING AGENDA
Thursday, February 18, 2016
6:30 p.m.

Nibley City Hall
455 West 3200 South
Nibley, Utah 84321

1. Opening Ceremonies (Councilmember Jacobsen)
2. Call to Order and Roll Call (Chair)
3. Approval of Minutes and Agenda (Chair)
4. Public Comment Period¹ (Chair)
5. Discussion and Consideration of Ordinance 16-01: An Ordinance Amending the Nibley City Planning Commission
6. Discussion and consideration of Resolution 15-12: A Resolution Amending the Nibley City Parks Master Plan to Include A Conceptual, Non-Construction Design for a 20-acre Expansion of Virgil Gibbons Heritage Park. (Second Reading)
7. Open and Public Meetings Act Training
8. Discussion Regarding the Nibley Justice Court
9. Council and Staff Reports

Adjourn Meeting

IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, REASONABLE ACCOMMODATIONS FOR INDIVIDUALS WITH DISABILITIES WILL BE PROVIDED UPON REQUEST. FOR ASSISTANCE, PLEASE CALL 752-0431 A MINIMUM OF 24 HOURS BEFORE THE MEETING.

¹ Public input is welcomed at all City Council Meetings. 15 minutes have been allotted to receive verbal public comment. Verbal comments shall be limited to 3 minutes per person. A sign-up sheet is available at the entrance to the Council Chambers starting 15 minutes prior to each council meeting and at the rostrum for the duration of the public comment period. Commenters shall identify themselves by name and address on the comment form and verbally for inclusion in the record. Comment will be taken in the order shown on the sign-up sheet. Written comment will also be accepted and entered into the record for the meeting if received prior to the conclusion of the meeting. Comments determined by the presiding officer to be in violation of Council meeting rules shall be ruled out of order.



Nibley City Council Agenda Report for February 18, 2016

Agenda Item #5

Description	Discussion and Consideration of Ordinance 16-01: An Ordinance Amending the Nibley City Planning Commission
Department	Planning and Zoning
Presenter	Shari Phippen, City Planner
Sponsor	n/a
Applicant	n/a
Background	<p>In the past, there have been times when the City could not hold a P&Z meeting for lack of a quorum, which has resulted in delayed applications for residents, businesses and developers. Staff and Mayor Dustin have discussed the possibility of adding an alternate or two to the Planning Commission, but prior to alternates being appointed, the ordinance governing the Planning Commission needs to be amended. This proposed ordinance modifies the City Code to allow for alternates and outline the role of alternates, as well as their terms of service.</p> <p>There are two other changes being proposed to the ordinance in addition to providing for alternate commissioners.</p> <p>First: The ordinance currently states that City Council members may be appointed to the Planning Commission. Staff have been discouraged in training from having councilmembers serve on both bodies, in order to give a greater level of autonomy between the two, so there is a language change that states that councilmembers may not serve on the Planning Commission.</p> <p>Second: The ordinance currently states that the chair should make a written report of Planning Commission meetings and votes to the City Council. It has been the practice that the minutes have constituted that report, so language has been included formalizing that the adopted minutes satisfy the report to the Council, as they outline everything that is asked for in the report.</p>
Recommendation	Provide direction to staff on any desired changes and advance the ordinance to a second reading.
Financial Impact	There is the potential for some additional cost for training and compensation for new commissioners. Commissioners are paid \$50 per meeting attended. Theoretically, if an alternate is only filling in for an absent commissioner, it should be budget neutral. However, if

	alternate commissioners attend meetings in addition to all regular members, there could be some extra cost.
Reviewed By	Mayor, City Manager, City Planner

Agenda Item #6

Description	Discussion and consideration of Resolution 15-12: A Resolution Amending the Nibley City Parks Master Plan to Include A Conceptual, Non-Construction Design for a 20-acre Expansion of Virgil Gibbons Heritage Park. (Second Reading)
Department	City Council, Planning, Parks
Presenter	Mayor Dustin
Sponsor	n/a
Applicant	n/a
Background	<p>This resolution was first brought before the City Council on Saturday, December 12, 2015, at which time the Council held a public hearing to gather input regarding amending the Parks Master Plan to include a non-construction, conceptual design for the westward expansion of Virgil Gibbons Heritage Park.</p> <p>On December 4, 2014, the City Council approved a land and grant funds swap with Cache County. As part of that land swap, the City entered into an agreement with the County in which the County agreed to reimburse the City for the purchase and development of new park space. That agreement required the City to adopt a concept design for the park with the agreement in December 2014. That concept was referred to at the time as the Nibley Sunrise Natural_Passive concept, and is attached to this memo.</p> <p>On March 19, 2015, the City Council authorized the purchase of 20 acres of property west of Virgil Gibbons Heritage Park. The property was purchased for \$440,000. Pursuant to the city's agreement with the County, the County will reimburse these funds to the City after the County's North Logan park property is sold. This is expected to occur within the next few years.</p> <p>In addition to that reimbursement, the County has agreed to reimburse the City for 50% of the cost to develop the park. The County will use RAPZ funds to reimburse the city. It is estimated that the County will contribute more than \$600,000 in RAPZ funds to the City to assist with the development costs. The City must match those funds dollar for dollar.</p> <p>An ad-hoc committee was formed in mid-2015 to explore preliminary ideas regarding the development of the new park land. The ad-hoc committee consisted of:</p> <ul style="list-style-type: none">• Then-Councilmember Ron Hellstern (retired science educator and coach)• Nate Norman (professional wetland specialist)• Becky Yeager (professional wildlife biologist)• Rob Davis (graphic designer) <p>The committee visited the property at different times of the day, to observe soils, flora & fauna and water sources. The committee also</p>

	<p>collected data on observable wildlife species, both rare and common. The committee consulted with entomologists at BYU and ornithologists at Cornell University regarding the various insect and bird populations present on the property.</p> <p>At the December 12, 2015 Council meeting, the committee provided the City Council with three different concepts, and the Council received comment on the concepts and selected one to consider for inclusion as a conceptual, non-construction design, in the Parks Master Plan. The Council asked the committee to return to the council with a revised version of the concept plan with an added legend to explain some of the features on the map. That revised version has been provided and is before the Council for final approval.</p>
Recommendation	A motion for approval of the Resolution would be in order.
Financial Impact	The eventual build-out of the park is expected to cost up to \$1.2 million, with half of those funds being provided by the City and half through County RAPZ funds. The City's portion of those funds would come from Park Impact Fee funds and, potentially, Capital Projects Funds. There is \$100,000 of Park Impact Fee funds budgeted in this year's budget for initial work on the project.
Reviewed By	Mayor, City Manager, City Planner, Public Works, Parks, Committee

Agenda Item #7

Description	Open and Public Meetings Act Training
Department	City Council
Presenter	Stephen Nelson, City Treasurer
Sponsor	n/a
Applicant	n/a
Background	<p>The Open and Public Meetings Act, found in Utah Code, Title 52, Chapter 4, which was adopted by the State Legislature in 2006, sets forth laws about public meetings, how they are to be conducted, noticed, recorded etc. The Act also requires that the presiding officer of each public body ensure that members of public body annually participate in training related to the requirements of the act. This training is provided annually at conferences and other training events hosted by the Utah League of Cities, however Mayor Dustin would like the training to also be provided in a City Council meeting to ensure all members are able to participate in the training. Three City Council members, Jacobsen, Bernhardt and Ramirez, have already participated in the training this year in January when they attended a training hosted at USU by the League of Cities. City staff will provide an overview of the act for the Council.</p>
Recommendation	Participate in the training.
Financial Impact	n/a
Reviewed By	Mayor, City Manager, City Treasurer

Agenda Item #8

Description	Discussion Regarding the Nibley Justice Court
Department	City Council, Justice Court
Presenter	David Zook, City Manager
Sponsor	n/a
Applicant	n/a
Background	<p>At the City Council meeting held on February 4, 2016, Councilmember Tim Ramirez requested that the Council schedule a future agenda item to discuss the Nibley Justice Court and options for its future operations. Nibley City has been contacted by the cities of Hyrum and Providence in recent months about the potential for combining justice court operations. Many cities throughout Utah are considering their options for handling justice court operations in the future due to courts not collecting sufficient revenue to support their operations, concerns about the ability to provide adequate security and opportunities for improved efficiencies.</p> <p>The Council asked staff to prepare some background information about justice courts and options for providing justice court services. Staff will provide such a presentation to Council at this meeting. The Council will not be asked to make a decision about the future of the court at this meeting. This presentation is simply informational in nature.</p>
Recommendation	Receive staff presentation and give direction to staff about next steps or more information that might be desired
Financial Impact	The City's 2015-2016 annual budget projects total revenue from the Nibley Justice Court in the amount of \$62,000 and projects expenses to be \$79,900.
Reviewed By	Mayor, City Manager, Justice Court Judge and staff

ORDINANCE 16-01

AN ORDINANCE AMENDING THE NIBLEY CITY PLANNING COMMISSION

WHEREAS, Nibley City tasks the City Planning Commission with certain powers and duties in order to facilitate the orderly development of the City; and

WHEREAS, in order to ensure the ability of the Planning Commission to process review applications in a timely manner, by virtue of consistently having a quorum of members, the City wishes to add alternate members of the Planning Commission.

NOW THEREFORE, BE IT ORDAINED BY THE NIBLEY CITY COUNCIL LOCATED AT NIBLEY, UTAH, THAT:

The attached ordinance, entitled "An Ordinance Amending the Nibley City Planning Commission" is hereby adopted, by fact and by reference, as Title 2, Section 1 "Planning Commission" of the Nibley City Code.

1. All ordinances, resolutions and policies of the City, or parts thereof, inconsistent herewith, are hereby repealed, but only to the extent of such inconsistency. This repealer shall not be construed as reviving any law, order, resolution or ordinance or part thereof.
2. Specifically repealed is all of the current Title 2, Section 1 of the Nibley City Code, entitled "Planning Commission".
3. Should any provision, clause or paragraph of this ordinance or the application thereof to any person or circumstance be declared by a court of competent jurisdiction to be invalid, in whole or in part, such invalidity shall not affect the other provisions or applications of this ordinance or the Nibley City Municipal Code to which these amendments apply, The valid part of any provision, clause or paragraph of this ordinance shall be given independence from the invalid provisions or applications and to this end the parts, sections and subsections of this ordinance, together with the regulations contained therein, are hereby declared to be severable.
4. This ordinance shall become effective upon posting as required by law.

Passed by the Nibley City Council this _____ day of _____, 2016.

Shaun Dustin, Mayor

ATTEST: _____
David Zook, City Recorder

ORDINANCE 16-01
An Ordinance Amending the Nibley City Planning Commission

2-1-1 Established

- A. Membership: There is hereby created a planning commission of five (5) members, and up to two (2) alternates. The Mayor, with advice and consent of the City Council, shall appoint all members and alternates to the Planning Commission. Members of the city council may not be appointed to the planning commission.
- B. Compensation: Members of the planning commission shall be compensated as determined by resolution of the city council.

2-1-2 Terms Of Office

The terms of the planning commission shall be staggered. Each member of the planning commission shall serve for a term of five (5) years and until his successor is appointed; provided, that the term of the first members shall be such that the terms of one member shall expire each year. Terms of members of the planning commission shall begin on or before the first Monday in February of each year. The city council may remove any member of the planning commission for cause and after a public hearing, if one is required. Vacancies shall be promptly filled in the same manner as the original appointment for the remainder of the unexpired term. Terms of alternates shall be the same as terms for regular members of the Planning Commission, which may result in the replacement of both a regular member and an alternate in certain years.

2-1-3 Organization

- A. Chairperson; Adoption Of Rules: The members of the planning commission shall select from their own members a chairperson and such other officers as deemed necessary and shall adopt rules and regulations for their organization and for the transaction of business and the conduct of their proceedings.
- B. Reports To City Council: Reports of official acts and recommendations of the planning commission shall be public and made by the chairperson in writing to the city council and shall indicate how each member of the planning commission voted with respect to such act or recommendation. Any member of the planning commission may also make a concurring or dissenting report or recommendation to the city council. Adoption and publication of the official minutes of the Planning Commission shall constitute a report to the City Council.
- C. Meetings: The planning commission shall meet at least once each month and at such other times as the planning commission may determine.
- D. Quorum: Three (3) members of the planning commission shall constitute a quorum. Alternate members shall count towards the number for a quorum.
- D-E. Alternate: Alternate members of the Planning Commission shall attend, at a minimum, those meetings where needed to constitute a quorum, but may attend other meetings as the Commission deems necessary. Alternate members shall participate in the discussion and voting on all matters for those meetings they attend.

2-1-4 Powers And Duties

In accordance with provisions of the Utah land use development and management act, Utah code section 10-9a-302, the following are the powers and duties of the Nibley City planning commission:

- A. The planning commission shall be the land use authority that:
 1. Recommends a general plan and amendments to to the city council;
 2. Recommends to the city council, zoning ordinances and maps, and amendments to zoning ordinances and maps;
 3. Administers provisions of the zoning ordinance;
 4. Recommends subdivision regulations and amendments thereto to the city council;
 5. Recommends approval or denial of subdivision applications to the city council;
 6. Assists with the creation of an appeal authority for the city of Nibley;
 7. Conducts such public hearings as are required by law or as deemed necessary;
 8. Hears and decides any matters that the city council designates, including the approval or denial of conditional use permits and review of nonconforming uses and structures; and
 9. Advises on matters as the city council directs and hears, or decides any matters as authorized by state law.

- B. The planning commission may designate by resolution, that Nibley City staff be the land use authority on the following land use applications:
 1. Conditional use permits for home occupations;
 2. Accessory building permits; and
 3. All other routine land use requests.

Should staff or any other land use authority so designated determine that an issue needs review and approval of the planning commission, they may refer the matter back to the commission for further investigation prior to approval or denial.

- C. The planning commission shall also protect the right of each:
 1. Applicant and third party to require formal consideration of any application by a land use authority;
 2. Applicant, adversely affected party, or municipal officer or employee to appeal a land use authority's decision to a separate appeal authority; and
 3. Participant to be heard in each public hearing on a contested application.

RESOLUTION 15-12

A RESOLUTION INCORPORATING A CONCEPTUAL, ~~NON-CONSTRUCTION~~ DESIGN FOR AN EXPANSION OF VIRGIL GIBBONS HERITAGE PARK, INTO THE NIBLEY CITY PARKS MASTER PLAN

WHEREAS, Nibley City (“the City”) adopts master plans to guide the long-term development of the City; and

WHEREAS, the City has adopted a master plan for the growth and development of its Parks, Trails and Recreation programs (“the Plan”); and

WHEREAS, in 2015, the City acquired 20-acres of property, to be developed as an expansion of the City’s current Virgil Gibbons Heritage Park (“the Park Expansion”); and

WHEREAS, the City anticipates amending the Plan in 2016 and wishes the development of the Park Expansion to be included in the Plan amendment; and

~~WHEREAS, the City wishes to have the development of the Park Expansion be the City’s highest priority in park development; and~~

WHEREAS, the City wishes to include a conceptual, ~~non-construction~~ design of the Park Expansion as part of the Plan in order to reflect the prioritization.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF NIBLEY CITY, STATE OF UTAH, AS FOLLOWS:

1. The attached “**Alternative 3**” conceptual, ~~non-construction~~ design is hereby incorporated as a part of the Nibley City Parks Master Plan.

Dated this ____ day of _____, 2015

Shaun Dustin, Mayor

ATTEST

David Zook, City Recorder

FIREFLY PARK

NIBLEY, UTAH

-  WETLANDS
-  NATIVE GRASSES
-  MANICURED LAWN
-  BOARDWALK
-  OBSERVATION SHIELD
-  EDUCATION CENTER
-  OBSERVATION DECK





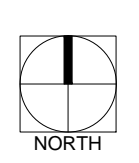
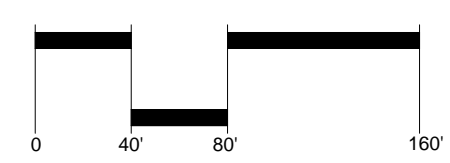
2200 SOUTH

800 WEST

NIBLEY PARK-PASSIVE RECREATION CONCEPT

November 5, 2014

Cache - Landmark Engineering, Inc.
 1011 W. 400 North, Suite 130
 Logan, Utah 84321
 435.713.0099 ph 435.713.0055 fax



Utah Code -- Title 52 -- Chapter 04 -- Open and Public Meetings Act

(as of 5/2010)

52-4-101. Title.

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

Enacted by Chapter 14, 2006 General Session

52-4-102. Declaration of public policy.

(1) The Legislature finds and declares that the state, its agencies and political subdivisions, exist to aid in the conduct of the people's business.

(2) It is the intent of the Legislature that the state, its agencies, and its political subdivisions:

- (a) take their actions openly; and
- (b) conduct their deliberations openly.

Renumbered and Amended by Chapter 14, 2006 General Session

52-4-103. Definitions.

As used in this chapter:

(1) "Anchor location" means the physical location from which:

- (a) an electronic meeting originates; or
- (b) the participants are connected.

(2) "Convening" means the calling of a meeting of a public body by a person authorized to do so for the express purpose of discussing or acting upon a subject over which that public body has jurisdiction or advisory power.

(3) "Electronic meeting" means a public meeting convened or conducted by means of a conference using electronic communications.

(4) (a) "Meeting" means the convening of a public body, with a quorum present, including a workshop or an executive session whether the meeting is held in person or by means of electronic communications, for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the public body has jurisdiction or advisory power.

(b) "Meeting" does not mean:

- (i) a chance meeting;
- (ii) a social meeting; or
- (iii) the convening of a public body that has both legislative and executive responsibilities where no public funds are appropriated for expenditure during the time the public body is convened and:

(A) the public body is convened solely for the discussion or implementation of administrative or operational matters for which no formal action by the public body is required; or

(B) the public body is convened solely for the discussion or implementation of administrative or operational matters that would not come before the public body for discussion or action.

(5) "Monitor" means to hear or observe, live, by audio or video equipment, all of the public statements of each member of the public body who is participating in a meeting.

(6) "Participate" means the ability to communicate with all of the members of a public body, either verbally or electronically, so that each member of the public body can hear or observe the communication.

(7) (a) "Public body" means any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:

- (i) is created by the Utah Constitution, statute, rule, ordinance, or resolution;
- (ii) consists of two or more persons;

- (iii) expends, disburses, or is supported in whole or in part by tax revenue; and
- (iv) is vested with the authority to make decisions regarding the public's business.
- (b) "Public body" does not include a:
 - (i) political party, political group, or political caucus; or
 - (ii) conference committee, rules committee, or sifting committee of the Legislature.
- (8) "Public statement" means a statement made in the ordinary course of business of the public body with the intent that all other members of the public body receive it.
- (9) (a) "Quorum" means a simple majority of the membership of a public body, unless otherwise defined by applicable law.
 - (b) "Quorum" does not include a meeting of two elected officials by themselves when no action, either formal or informal, is taken on a subject over which these elected officials have advisory power.
- (10) "Recording" means an audio, or an audio and video, record of the proceedings of a meeting that can be used to review the proceedings of the meeting.

Amended by Chapter 35, 2007 General Session
Amended by Chapter 45, 2007 General Session

52-4-104. Training.

The presiding officer of the public body shall ensure that the members of the public body are provided with annual training on the requirements of this chapter.

Enacted by Chapter 263, 2006 General Session

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

- (1) A meeting is open to the public unless closed under Sections **52-4-204**, **52-4-205**, and **52-4-206**.
- (2) (a) A meeting that is open to the public includes a workshop or an executive session of a public body in which a quorum is present, unless closed in accordance with this chapter.
 - (b) A workshop or an executive session of a public body in which a quorum is present that is held on the same day as a regularly scheduled public meeting of the public body may only be held at the location where the public body is holding the regularly scheduled public meeting unless:
 - (i) the workshop or executive session is held at the location where the public body holds its regularly scheduled public meetings but, for that day, the regularly scheduled public meeting is being held at different location;
 - (ii) any of the meetings held on the same day is a site visit or a traveling tour and, in accordance with this chapter, public notice is given;
 - (iii) the workshop or executive session is an electronic meeting conducted according to the requirements of Section **52-4-207**; or
 - (iv) it is not practicable to conduct the workshop or executive session at the regular location of the public body's open meetings due to an emergency or extraordinary circumstances.

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

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

- (1) A public body shall give not less than 24 hours public notice of each meeting including the meeting:
 - (a) agenda;
 - (b) date;
 - (c) time; and
 - (d) place.
- (2) (a) In addition to the requirements under Subsection (1), a public body which holds regular meetings that are scheduled in advance over the course of a year shall give public notice at least once each year of its annual meeting schedule as provided in this section.

(b) The public notice under Subsection (2)(a) shall specify the date, time, and place of the scheduled meetings.

(3) (a) Public notice shall be satisfied by:

(i) posting written notice:

(A) at the principal office of the public body, or if no principal office exists, at the building where the meeting is to be held; and

(B) beginning October 1, 2008 and except as provided in Subsection (3)(b), on the Utah Public Notice Website created under Section **63F-1-701**; and

(ii) providing notice to:

(A) at least one newspaper of general circulation within the geographic jurisdiction of the public body; or

(B) a local media correspondent.

(b) A public body of a municipality under Title 10, Utah Municipal Code, a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act, is encouraged, but not required, to post written notice on the Utah Public Notice Website, if the municipality or district has a current annual budget of less than \$1 million.

(c) A public body is in compliance with the provisions of Subsection (3)(a)(ii) by providing notice to a newspaper or local media correspondent under the provisions of Subsection **63F-1-701**(4)(d).

(4) A public body is encouraged to develop and use additional electronic means to provide notice of its meetings under Subsection (3).

(5) (a) The notice requirement of Subsection (1) may be disregarded if:

(i) because of unforeseen circumstances it is necessary for a public body to hold an emergency meeting to consider matters of an emergency or urgent nature; and

(ii) the public body gives the best notice practicable of:

(A) the time and place of the emergency meeting; and

(B) the topics to be considered at the emergency meeting.

(b) An emergency meeting of a public body may not be held unless:

(i) an attempt has been made to notify all the members of the public body; and

(ii) a majority of the members of the public body approve the meeting.

(6) (a) A public notice that is required to include an agenda under Subsection (1) shall provide reasonable specificity to notify the public as to the topics to be considered at the meeting. Each topic shall be listed under an agenda item on the meeting agenda.

(b) Subject to the provisions of Subsection (6)(c), and at the discretion of the presiding member of the public body, a topic raised by the public may be discussed during an open meeting, even if the topic raised by the public was not included in the agenda or advance public notice for the meeting.

(c) Except as provided in Subsection (5), relating to emergency meetings, a public body may not take final action on a topic in an open meeting unless the topic is:

(i) listed under an agenda item as required by Subsection (6)(a); and

(ii) included with the advance public notice required by this section.

Amended by Chapter 5, 2009 Special Session 1

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

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

(2) Written minutes of an open meeting shall include:

(a) the date, time, and place of the meeting;

(b) the names of members present and absent;

(c) the substance of all matters proposed, discussed, or decided by the public body which may include a summary of comments made by members of the public body;

(d) a record, by individual member, of each vote taken by the public body;

(e) the name of each person who:

(i) is not a member of the public body; and

(ii) after being recognized by the presiding member of the public body, provided testimony or comments to the public body;

(f) the substance, in brief, of the testimony or comments provided by the public under Subsection (2)(e); and

(g) any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes or recording.

(3) A recording of an open meeting shall:

(a) be a complete and unedited record of all open portions of the meeting from the commencement of the meeting through adjournment of the meeting; and

(b) be properly labeled or identified with the date, time, and place of the meeting.

(4) The written minutes and recording of an open meeting are public records under Title 63G, Chapter 2, Government Records Access and Management Act, as follows:

(a) Written minutes that have been prepared in a form awaiting only formal approval by the public body are a public record.

(b) Written minutes shall be available to the public within a reasonable time after the end of the meeting.

(c) Written minutes that are made available to the public before approval by the public body under Subsection (4)(d) shall be clearly identified as "awaiting formal approval" or "unapproved" or with some other appropriate notice that the written minutes are subject to change until formally approved.

(d) A public body shall establish and implement procedures for the public body's approval of the written minutes of each meeting.

(e) Written minutes are the official record of action taken at the meeting.

(f) A recording of an open meeting shall be available to the public for listening within three business days after the end of the meeting.

(5) All or any part of an open meeting may be independently recorded by any person in attendance if the recording does not interfere with the conduct of the meeting.

(6) The written minutes or recording of an open meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.

(7) Notwithstanding Subsection (1), a recording is not required to be kept of:

(a) an open meeting that is a site visit or a traveling tour, if no vote or action is taken by the public body; or

(b) an open meeting of a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or special service district under Title 17D, Chapter 1, Special Service District Act, if the district's annual budgeted expenditures for all funds, excluding capital expenditures and debt service, are \$50,000 or less.

Amended by Chapter 137, 2009 General Session

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

(1) A closed meeting may be held if:

(a) (i) a quorum is present;

(ii) the meeting is an open meeting for which notice has been given under Section **52-4-202**; and

(iii) (A) two-thirds of the members of the public body present at the open meeting vote to approve closing the meeting;

(B) for a meeting that is required to be closed under Section **52-4-205**, if a majority of the members of the public body present at an open meeting vote to approve closing the meeting; or

(C) for an ethics committee of the Legislature that is conducting an open meeting for the purpose of reviewing an ethics complaint, a majority of the members present vote to approve closing the meeting for the purpose of seeking or obtaining legal advice on legal, evidentiary, or procedural matters, or for conducting deliberations to reach a decision on the complaint; or

(b) for the Independent Legislative Ethics Commission, the closed meeting is convened for the purpose of conducting business relating to the receipt or review of an ethics complaint, provided that public notice of the closed meeting is given under Section **52-4-202**, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to the receipt or review of ethics complaints".

(2) A closed meeting is not allowed unless each matter discussed in the closed meeting is permitted under Section **52-4-205**.

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

(4) The following information shall be publicly announced and entered on the minutes of the open meeting at which the closed meeting was approved:

(a) the reason or reasons for holding the closed meeting;

(b) the location where the closed meeting will be held; and

(c) the vote by name, of each member of the public body, either for or against the motion to hold the closed meeting.

(5) Except as provided in Subsection **52-4-205(2)**, nothing in this chapter shall be construed to require any meeting to be closed to the public.

Amended by Chapter 35, 2010 General Session

Amended by Chapter 239, 2010 General Session

52-4-205. Purposes of closed meetings.

(1) A closed meeting described under Section **52-4-204** may only be held for:

(a) discussion of the character, professional competence, or physical or mental health of an individual;

(b) strategy sessions to discuss collective bargaining;

(c) strategy sessions to discuss pending or reasonably imminent litigation;

(d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, if public discussion of the transaction would:

(i) disclose the appraisal or estimated value of the property under consideration; or

(ii) prevent the public body from completing the transaction on the best possible terms;

(e) strategy sessions to discuss the sale of real property, including any form of a water right or water shares, if:

(i) public discussion of the transaction would:

(A) disclose the appraisal or estimated value of the property under consideration; or

(B) prevent the public body from completing the transaction on the best possible terms;

(ii) the public body previously gave public notice that the property would be offered for sale; and

(iii) the terms of the sale are publicly disclosed before the public body approves the sale;

(f) discussion regarding deployment of security personnel, devices, or systems;

(g) investigative proceedings regarding allegations of criminal misconduct;

(h) as relates to the Independent Legislative Ethics Commission, conducting business relating to the receipt or review of ethics complaints;

(i) as relates to an ethics committee of the Legislature, a purpose permitted under Subsection **52-4-204(1)(a)(iii)(B)**;

(j) as relates to a county legislative body, discussing commercial information as defined in Section **59-1-404**;

or
(k) a purpose for which a meeting is required to be closed under Subsection (2).

(2) The following meetings shall be closed:

(a) a meeting of the Health and Human Services Interim Committee to review a fatality review report described in Subsection **62A-16-301(1)(a)**, and the responses to the report described in Subsections **62A-16-301(2)** and (4); and

(b) a meeting of the Child Welfare Legislative Oversight Panel to:

(i) review a fatality review report described in Subsection **62A-16-301(1)(a)**, and the responses to the report described in Subsections **62A-16-301(2)** and (4); or

(ii) review and discuss an individual case, as described in Subsection **62A-4a-207(5)**.

(3) A public body may not interview a person applying to fill an elected position in a closed meeting.

Amended by Chapter 35, 2010 General Session
Amended by Chapter 60, 2010 General Session
Amended by Chapter 239, 2010 General Session

52-4-206. Record of closed meetings.

- (1) Except as provided under Subsection (6), if a public body closes a meeting under Subsection **52-4-205(1)**, the public body:
- (a) shall make a recording of the closed portion of the meeting; and
 - (b) may keep detailed written minutes that disclose the content of the closed portion of the meeting.
- (2) A recording of a closed meeting shall be complete and unedited from the commencement of the closed meeting through adjournment of the closed meeting.
- (3) The recording and any minutes of a closed meeting shall include:
- (a) the date, time, and place of the meeting;
 - (b) the names of members present and absent; and
 - (c) the names of all others present except where the disclosure would infringe on the confidentiality necessary to fulfill the original purpose of closing the meeting.
- (4) Minutes or recordings of a closed meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.
- (5) Both a recording and written minutes of closed meetings are protected records under Title 63G, Chapter 2, Government Records Access and Management Act, except that the records may be disclosed under a court order only as provided under Section **52-4-304**.
- (6) If a public body closes a meeting exclusively for the purposes described under Subsection **52-4-205(1)(a)**, (1)(f), or (2):
- (a) the person presiding shall sign a sworn statement affirming that the sole purpose for closing the meeting was to discuss the purposes described under Subsection **52-4-205(1)(a)**, (1)(f), or (2); and
 - (b) the provisions of Subsection (1) of this section do not apply.

Amended by Chapter 239, 2010 General Session

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

- (1) A public body may convene and conduct an electronic meeting in accordance with this section.
- (2) (a) A public body may not hold an electronic meeting unless the public body has adopted a resolution, rule, or ordinance governing the use of electronic meetings.
- (b) The resolution, rule, or ordinance may:
 - (i) prohibit or limit electronic meetings based on budget, public policy, or logistical considerations;
 - (ii) require a quorum of the public body to:
 - (A) be present at a single anchor location for the meeting; and
 - (B) vote to approve establishment of an electronic meeting in order to include other members of the public body through an electronic connection;
 - (iii) require a request for an electronic meeting to be made by a member of a public body up to three days prior to the meeting to allow for arrangements to be made for the electronic meeting;
 - (iv) restrict the number of separate connections for members of the public body that are allowed for an electronic meeting based on available equipment capability; or
 - (v) establish other procedures, limitations, or conditions governing electronic meetings not in conflict with this section.
- (3) A public body that convenes or conducts an electronic meeting shall:
- (a) give public notice of the meeting:
 - (i) in accordance with Section **52-4-202**; and
 - (ii) post written notice at the anchor location;
 - (b) in addition to giving public notice required by Subsection (3)(a), provide:
 - (i) notice of the electronic meeting to the members of the public body at least 24 hours before the meeting so that they may participate in and be counted as present for all purposes, including the determination that a

quorum is present; and

(ii) a description of how the members will be connected to the electronic meeting;

(c) establish one or more anchor locations for the public meeting, at least one of which is in the building and political subdivision where the public body would normally meet if they were not holding an electronic meeting;

(d) provide space and facilities at the anchor location so that interested persons and the public may attend and monitor the open portions of the meeting; and

(e) if comments from the public will be accepted during the electronic meeting, provide space and facilities at the anchor location so that interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

(4) Compliance with the provisions of this section by a public body constitutes full and complete compliance by the public body with the corresponding provisions of Sections **52-4-201** and **52-4-202**.

Amended by Chapter 45, 2007 General Session

52-4-208. Chance or social meetings.

(1) This chapter does not apply to any chance meeting or a social meeting.

(2) A chance meeting or social meeting may not be used to circumvent the provisions of this chapter.

Enacted by Chapter 14, 2006 General Session

52-4-301. Disruption of meetings.

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

Enacted by Chapter 14, 2006 General Session

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

(1) (a) Any final action taken in violation of Section **52-4-201**, **52-4-202**, or **52-4-207** is voidable by a court of competent jurisdiction.

(b) A court may not void a final action taken by a public body for failure to comply with the posting written notice requirements under Subsection **52-4-202(3)(a)(i)(B)** if:

(i) the posting is made for a meeting that is held before April 1, 2009; or

(ii) (A) the public body otherwise complies with the provisions of Section **52-4-202**; and

(B) the failure was a result of unforeseen Internet hosting or communication technology failure.

(2) Except as provided under Subsection (3), a suit to void final action shall be commenced within 90 days after the date of the action.

(3) A suit to void final action concerning the issuance of bonds, notes, or other evidences of indebtedness shall be commenced within 30 days after the date of the action.

Amended by Chapter 234, 2008 General Session

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

(1) The attorney general and county attorneys of the state shall enforce this chapter.

(2) The attorney general shall, on at least a yearly basis, provide notice to all public bodies that are subject to this chapter of any material changes to the requirements for the conduct of meetings under this chapter.

(3) A person denied any right under this chapter may commence suit in a court of competent jurisdiction to:

(a) compel compliance with or enjoin violations of this chapter; or

(b) determine the chapter's applicability to discussions or decisions of a public body.

(4) The court may award reasonable attorney fees and court costs to a successful plaintiff.

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

52-4-304. Action challenging closed meeting.

(1) Notwithstanding the procedure established under Subsection **63G-2-202(7)**, in any action brought under the authority of this chapter to challenge the legality of a closed meeting held by a public body, the court shall:

- (a) review the recording or written minutes of the closed meeting in camera; and
- (b) decide the legality of the closed meeting.

(2) (a) If the judge determines that the public body did not violate Section **52-4-204**, **52-4-205**, or **52-4-206** regarding closed meetings, the judge shall dismiss the case without disclosing or revealing any information from the recording or minutes of the closed meeting.

(b) If the judge determines that the public body violated Section **52-4-204**, **52-4-205**, or **52-4-206** regarding closed meetings, the judge shall publicly disclose or reveal from the recording or minutes of the closed meeting all information about the portion of the meeting that was illegally closed.

Amended by Chapter 382, 2008 General Session

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

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

Enacted by Chapter 263, 2006 General Session