



CITY OF SURPRISE
Local Fire and Police Boards Joint Meeting
16000 N. Civic Center Plaza
Surprise, AZ 85374
Wednesday, December 11, 2019 @ 9:00 AM
COUNCIL CHAMBERS

- A. Call To Order
- B. Roll Call
- C. Pledge of Allegiance
- D. Current Events and Reports
- E. Staff Reports
- F. Public Safety Retirement Commission- Fire Agenda

CALL TO THE PUBLIC:

INSTRUCTIONS: In order to address the Board\Commission, you will need to fill out a Call to the Public Form available at the front counter, and then turn it in to the Secretary before the meeting begins.

Note: A.R.S. 38-431.01(H) - During this time members of the public may address the Board\Commission only on issues within the jurisdiction of the Board\Commission which are not an item on the agenda. At the conclusion of the open call, the Board\Commission may respond to criticism, may ask staff to review the matter or may ask that the matter be put on a future agenda. No discussion or action shall take place on any item raised.

CONSENT AGENDA:

REGULAR AGENDA ITEM - NON-PUBLIC HEARING:

- 1. Citywide Joint Board training meeting conducted by Carrie O'Brien.
Human Resources
- 2. Citywide Chairman's statement to the Boards.
Human Resources
- G. Other Business and Future Agenda Items
- H. Executive Session

For information purposes: Upon a public majority vote of a quorum of the Public Safety Personnel Retirement Commission ("Commission"), the Commission may hold an executive session, which will not be open to the public, but for only the following purposes: discussion or consideration of records exempt by law from public inspection (A.R.S. §38-431.03(A)(2)); or discussion or consultation for legal advice with the Commission's attorneys (A.R.S. §38-431.03(A)(3)).

Confidentiality Requirements: Pursuant to A.R.S. §38-431.03(C)(D), any person receiving executive session information pursuant to A.R.S. §38-431.02 shall not disclose that information except to the Attorney General or County Attorney or by agreement of the Commission, or as otherwise ordered by a court of competent jurisdiction.

The Commission may vote to hold an executive session for the purpose of obtaining legal advice from the Commission's attorney on any matter listed on the agenda pursuant to A.R.S. § 38-431.03(A)(3).

- I. Adjournment

POSTED:December 10, 2019 at 8:55 AM

SPECIAL NOTE: PERSONS WITH SPECIAL ACCESSIBILITY NEEDS, INCLUDING LARGE PRINT MATERIALS OR INTERPRETER, SHOULD CONTACT THE CITY CLERK'S OFFICE @ 623.222.1200 OR TTY 623.222.1002, BY NO LATER THAN 24 HOURS IN ADVANCE OF THE REGULAR SCHEDULED MEETING TIME.



CITY OF SURPRISE
Local Fire and Police Boards Joint Meeting

Council Meeting Date: December 11, 2019
Submitting Department: Human Resources
Staff Recommendations:

Contact Person:
District: Citywide

Consent: No Regular: Yes Public Hearing: No Report/Discussion: No

Agenda Wording:

Joint Board training meeting conducted by Carrie O'Brien.

Motion:

N/A

Background:

Legal Counsel, Carrie O'Brien, will lead a presentation on Open Meeting Law, Statutory Authority of PSPRS Boards, Operating Procedure of Boards and Board member conduct.

Objective Analysis:

N/A

Policy Compliant:

N/A

Financial Impact:

N/A

Budget Impact:

N/A

FTE Impact:

N/A

ATTACHMENTS:

1. Code of Conduct Police
 2. Code of Conduct Fire
 3. Joint PSPRS Presentation
-

**PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM (PSPRS)
POLICE BOARD MEMBER ETHICS**

Board members will strive to maintain and improve the integrity of the Public Safety Personnel Retirement System, and to that end will:

- A. Attend all Board meetings insofar as possible, and become informed concerning the issues to be considered at those meetings;
- B. Recognize that decisions should be made only after discussion at publicly held Board meetings;
- C. Render all decisions based on the available facts and independent judgment, and refuse to surrender that judgment to individuals or special-interest groups;
- D. Encourage the free expression of opinion by all Board members, and seek systematic communications between the Board, PSPRS members and all elements of the community;
- E. Work with other Board members to establish effective Board policies in compliance with State statutes;
- F. Be informed about current PSPRS issues by individual study and through participation in programs providing needed information, such as those sponsored by the state;
- G. Support the employment of persons best qualified to serve in the capacity of Public Safety, i.e. Police Officer, Fire Fighter;
- H. Avoid the potential for a conflict of interest, recuse yourself if you believe it is in the best interest of the integrity of the Board and refrain from using your Board position for personal or partisan gain;
- I. Take no private action that will compromise the Board or administration, and respect the confidentiality of information that is privileged under applicable law; and
- J. Remember always that a Board member's first and greatest concern must be to maintain the integrity of the Public Safety Personnel Retirement System for the betterment of all its members, active or retired.

Printed Name

Signature

Date

Adopted: December 10, 2019

**PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM (PSPRS)
FIRE BOARD MEMBER ETHICS**

Board members will strive to maintain and improve the integrity of the Public Safety Personnel Retirement System, and to that end will:

- A. Attend all Board meetings insofar as possible, and become informed concerning the issues to be considered at those meetings;
- B. Recognize that decisions should be made only after discussion at publicly held Board meetings;
- C. Render all decisions based on the available facts and independent judgment, and refuse to surrender that judgment to individuals or special-interest groups;
- D. Encourage the free expression of opinion by all Board members, and seek systematic communications between the Board, PSPRS members and all elements of the community;
- E. Work with other Board members to establish effective Board policies in compliance with State statutes;
- F. Be informed about current PSPRS issues by individual study and through participation in programs providing needed information, such as those sponsored by the state;
- G. Support the employment of persons best qualified to serve in the capacity of Public Safety, i.e. Police Officer, Fire Fighter;
- H. Avoid the potential for a conflict of interest, recuse yourself if you believe it is in the best interest of the integrity of the Board and refrain from using your Board position for personal or partisan gain;
- I. Take no private action that will compromise the Board or administration, and respect the confidentiality of information that is privileged under applicable law; and
- J. Remember always that a Board member's first and greatest concern must be to maintain the integrity of the Public Safety Personnel Retirement System for the betterment of all its members, active or retired.

Printed Name

Signature

Date

Adopted: December 10, 2019

PSPRS Local Board Powers, Open Meeting Law and Conflicts of Interest

Surprise Public Safety Boards

Carrie O'Brien

December 11, 2019

Why is there a Local Board?

- The Local Board is vested with the administration of the PSPRS system and the responsibility for making the provisions of the PSPRS system effective for the employer.
- All approved agencies participating in the PSPRS system shall have Local Boards.
- The Pension Statutes under A.R.S. Title 38 creates numerous Local Board responsibilities which the employer (Suprise) agrees to by entering into a Joinder Agreement and joining PSPRS.

Board Member Responsibilities

- Administer the PSPRS system diligently and honestly
- Understand all provisions of the PSPRS system
- Not knowingly violate or allow a provision of the PSPRS system to be violated
- Make provisions of the PSPRS system effective
- Seek and receive information from the City and member to administer PSPRS system
- Distribute information from and provide requested information to the PSPRS Board of Trustees

Local Board Authority and Obligations (A.R.S. 38-847)

- **Determine rights** of claimants to benefits such as:
 - Eligibility
 - Service credits
 - Disability
 - Decide the amount, time of payment and manner of benefits under the PSPRS system
- Prescribe procedures for applications and benefits
- Make a determination as to the right of any claimant to a benefit and afford to any claimant or the Board of Trustees a right to **rehearing** on the original determination
- Request and Receive from the City of Surprise and from members information necessary for proper administration of the PSPRS system and action on claims for benefits and to forward the information to the PSPRS Board of trustees.

Local Board Authority and Obligations (A.R.S. 38-847)

- Appoint Medical Boards
- Sue and be sued
 - Indemnification for good faith administration of the system
- Request and receive:
 - actuarial valuation of PSPRS system
 - report of financial condition, receipts and disbursements of the fund

Purpose of a medical board (A.R.S. 38-859)

- Doctor can identify a physical/mental condition or injury that existed or occurred prior to a member's date of membership in the system that may cause benefits to be limited. Protects PSPRS from non-qualifying disability applications. A.R.S. 38-844(D)
- Doctor can evaluate a member's eligibility for an accidental disability pension

Local Board Authority and Obligations under State Law

- New member acceptance into PSPRS
- Ordinary Retirement
- DROP
- Disability Retirement
 - Accidental
 - Ordinary
 - Catastrophic

Reexamination of Disability Benefits (A.R.S. § 38-844(E))

- Requires reevaluation for Catastrophic Disability (Rule G(1))
- Discretionary for accidental and ordinary disability (Rule G(2))
 - Board may require members to undergo annual medical examination to determine whether they are still disabled and qualify
 - Secretary will prepare a list of members who may be subject to examination.
 - At Chair's direction, subcommittee of two members review list and report recommendations for medical evaluation to Board.
 - If member refuses to reevaluation, disability pension is terminated.

Open Meeting law and Conflicts of Interest



Arizona's Open Meeting Law

- Sunshine State—Public Policy of Arizona requires Open Government
- A “public body” must conduct business in a public meeting with few exceptions (i.e. review of confidential records)
- The Police and Fire Boards and any subcommittees are public bodies. A.R.S. 38-847

How is a meeting called?

- Agenda is created by Board Secretary.
- Meeting notice is published 24 hours before meeting (unless an actual emergency exists).
- Meeting documents (except confidential records) are available for public inspection

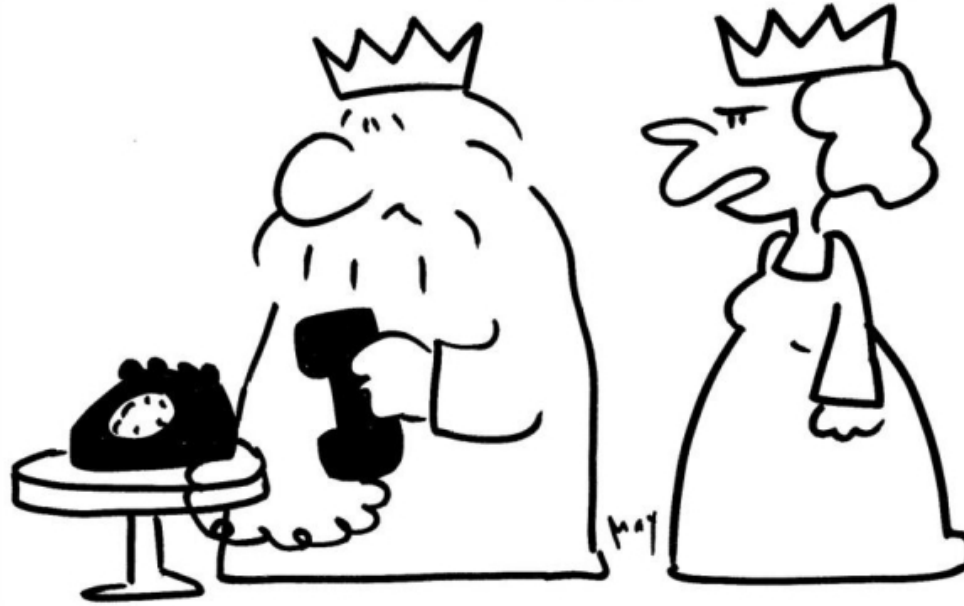
How are items added to the agenda?

- Can be raised by any member during “Future Agenda Items” portion of public meeting.
- Must be voted on by Board with a motion, second and quorum approving.
- Approved items will be placed on a Future Agenda—not necessarily the *next* Agenda.

Can we discuss matters not on the agenda?

- No
- Seriously, No.
- Not unless you want trouble.
- Only if it is an Actual Emergency—and this is rare!

Idea of a public meeting seems simple, but
technology complicates things...



"That was a conference call,
dummy! — You just declared war
on *everybody!*"

Sounds good, right? But what actually is a **meeting**? The way we communicate is evolving...

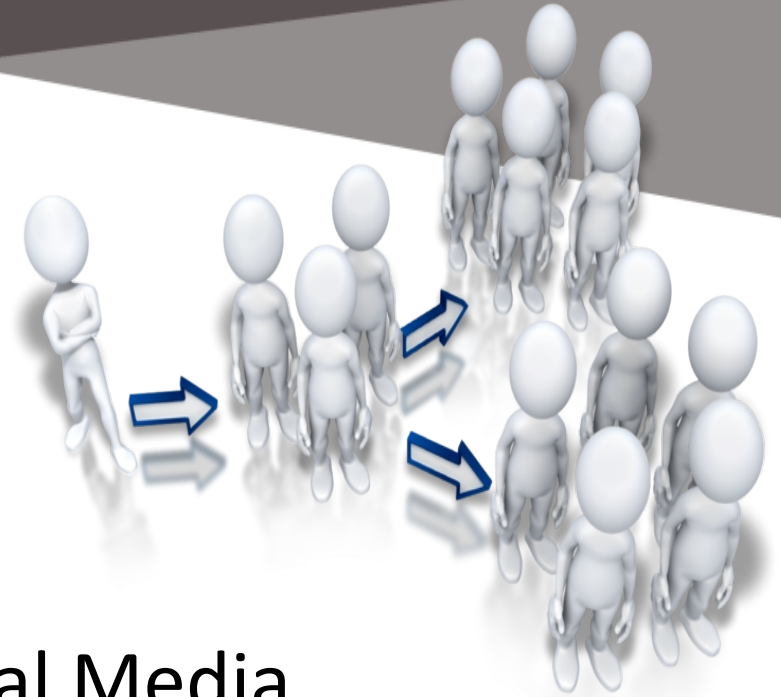
A meeting occurs when the public body discusses, proposes or takes legal action.

→ In 2018, the Legislature revised the definition of a “meeting” to include

- 1-way electronic communication by one member sent to a quorum of the Board that **proposes legal action.**
- Exchange of electronic communication between **quorum of public body discussing or deliberating or proposing legal action concerning a matter** coming before the public body for action.



Email and Social Media Rules



- Do not use Reply All
- Think before you Forward or post on Social Media
- Does your email or social media post **propose legal action?**
- Does your email or social media post contain **facts or opinions that may come before the public body for action?**
- If yes, then think twice about sending or posting

Attending other Public Meetings

- Think about whether the topic could come before this Board as an agenda item.
- Is a quorum of this Board at another meeting or City event?
 - If yes, notice the event as a meeting.

Open Meeting Law Violations

- The Attorney General has broad investigative authority.
- Actions taken in violation of Open Meeting Law are Void.
- Civil Penalties for a knowing violation by a Board member or a person who knowing aids in open meeting law violation (\$500 to \$2500)

Robert's Rules of Order

- Parliamentary Procedures regularly used by public bodies.
- Robert's Rules do sometimes conflict with Arizona Open Meeting law.
- Board could amend rules to include reference to operating under Robert's Rules except when in conflict with the Open Meeting Law.

Conflicts of Interest

- Purpose is to remove or limit possibility of personal influence upon an official's decision.
 - *Yetman v. Naumann*, 492 P.2d 1252 (App. 1972)
- Protects public from self-dealing by public employees.
 - *Maucher v. City of Eloy*, 701 P.2d 593 (App. 1985)

Conflicts of Interest—A.R.S. 38-503

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

What is a substantial interest in a matter?

1. Not Remote (designated by statute)
2. Could the decision affect, either positively or negatively, an interest of the officer or employee of the officer's relative?
3. Is the interest a pecuniary or proprietary interest? Could it affect a financial or ownership interest?

If yes, then a substantial interest exists

What if I have a substantial interest in a matter?

1. Disclose the interest in writing to the City.
2. Refrain from participating in discussions or decisions relating to the matter.
3. **DO NOT HAVE ANYTHING TO DO WITH THE MATTER.**

What happens if I violate the conflict of interest laws?

- CIVIL SUIT to enforce the law
- Court MAY award reasonable attorney's fees
- Class VI Felony for INTENTIONALLY or KNOWINGLY violating the law
- Class I Misdemeanor for RECKLESSLY or NEGLIGENTLY violating the law
- Person found guilty might be required to FORFEIT PUBLIC OFFICE
- Embarrassment, negative media attention, loss of public confidence.

Golden Rules for OML and Conflicts of Interest

- You can express your opinion on topics that may come before the Board publicly.
- Avoid discussing with Board members topics that may come before the Board.
 - “discussing” includes emails, text messages and social media, all of which may be a public record.
- Disclose any conflict of interest to legal counsel to decide whether it is “substantial.” Use an abundance of caution on this.
- If you have a conflict physically remove yourself from any discussion involving the matter. Appearances matter.
- Would it pass the headline test? Is there an *appearance of impropriety*?

Summary of Local Board Statutes

- The Local Board shall:
 - Adopt such bylaws as it deems desirable
 - Approve a secretary who may, but need not be, a member of the Local Board
- The Local Board's Secretary shall:
 - Keep a record and prepare minutes of all meetings, forward the minutes to the PSPRS Board of Trustees within 20 days after each meeting
 - Forward all necessary communications to the PSPRS Board of Trustees

Summary of Local Board Statutes (continued)

- The City of Surprise pays fees of the medical board, local legal counsel and all other Local Board expenses necessary for the administration of the PSPRS system at rates approved by the Local Board.
- The Local Board shall issue directions to the PSPRS Board of Trustees concerning the benefits to be paid from the City of Surprise's account pursuant to provisions of the fund.
- The Local Board shall maintain all reports from the PSPRS Board of Trustees and the actuary.
- Upon request, the Local Board shall furnish the City of Surprise, the PSPRS Board of Trustees and/or the Legislature with such annual reports about the administration of the PSPRS system that are reasonable and appropriate.

Questions?

Thank you.

Carrie O'Brien

cobrien@gustlaw.com

602-257-7414



CITY OF SURPRISE
Local Fire and Police Boards Joint Meeting

Council Meeting Date: December 11, 2019
Submitting Department: Human Resources
Staff Recommendations:

Contact Person:
District: Citywide

Consent: No Regular: Yes Public Hearing: No Report/Discussion: No

Agenda Wording:

Chairman's statement to the Boards.

Motion:

N/A

Background:

Chairman to make statement to the Board regarding Board functions and applications of training provided by Board Legal Counsel, Carrie O'Brien.

Objective Analysis:

N/A

Policy Compliant:

N/A

Financial Impact:

N/A

Budget Impact:

N/A

FTE Impact:

N/A

ATTACHMENTS:



CITY OF SURPRISE
Local Fire and Police Boards Joint Meeting

Council Meeting Date: December 11, 2019
Submitting Department: Agenda Creation
Staff Recommendations:

Contact Person:
District: Citywide

Consent: No Regular: No Public Hearing: No Report/Discussion: No

Agenda Wording:

Executive Disclaimer (PSPRS)

Motion:

Background:

Objective Analysis:

Policy Compliant:

Financial Impact:

Budget Impact:

FTE Impact:

ATTACHMENTS:
