

Committee of the Whole  
Monday, June 5, 2023 5:30 PM  
Council Chambers  
2500 14 Street  
Columbus, NE 68601

The Mayor and City Council reserve the right to go into closed session as per Section 84-1410 of the Nebraska Revised Statutes. A current agenda is on file at City Hall, 2500 14 Street, Columbus, Nebraska. For more information, call 402-562-4224 or visit our website at [www.columbusne.us](http://www.columbusne.us).

{{Name: Agenda Item Name}}

- 1. Statement of compliance with Open Meetings Act and roll call.**

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**NEBRASKA OPEN MEETINGS ACT**

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**84-1407. Act, how cited.**

Sections 84-1407 to 84-1414 shall be known and may be cited as the Open Meetings Act.

**Source:** Laws 2004, LB 821, § 34.

**84-1408. Declaration of intent; meetings open to public.**

It is hereby declared to be the policy of this state that the formation of public policy is public business and may not be conducted in secret.

Every meeting of a public body shall be open to the public in order that citizens may exercise their democratic privilege of attending and speaking at meetings of public bodies, except as otherwise provided by the Constitution of Nebraska, federal statutes, and the Open Meetings Act.

**Source:** Laws 1975, LB 325, § 1; Laws 1996, LB 900, § 1071; Laws 2004, LB 821, § 35.

**Annotations**

- Nebraska's public meetings laws do not apply to school board deliberations pertaining solely to disputed adjudicative facts. *McQuinn v. Douglas Cty. Sch. Dist. No. 66*, 259 Neb. 720, 612 N.W.2d 198 (2000).
- The primary purpose of the public meetings law is to ensure that public policy is formulated at open meetings. *Marks v. Judicial Nominating Comm.*, 236 Neb. 429, 461 N.W.2d 551 (1990).
- The public meetings law is broadly interpreted and liberally construed to obtain the objective of openness in favor of the public, and provisions permitting closed sessions must be narrowly and strictly construed. *Grein v. Board of Education of Fremont*, 216 Neb. 158, 343 N.W.2d 718 (1984).
- Although a committee was a subcommittee of a natural resources district board, it was not subject to the Open Meetings Act because there was never a quorum of board members in attendance and the committee did not hold hearings, make policy, or take formal action on behalf of the board. *Koch v. Lower Loup NRD*, 27 Neb. App. 301, 931 N.W.2d 160 (2019).
- A county board of equalization is a public body whose meetings shall be open to the public. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).

**84-1409. Terms, defined.**

For purposes of the Open Meetings Act, unless the context otherwise requires:

(1)(a) Public body means (i) governing bodies of all political subdivisions of the State of Nebraska, (ii) governing bodies of all agencies, created by the Constitution of Nebraska, statute, or otherwise pursuant to law, of the executive department of the State of Nebraska, (iii) all independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies created by the Constitution of Nebraska, statute, or otherwise pursuant to law, (iv) all study or advisory committees of the executive department of the State of Nebraska whether having continuing existence or appointed as special committees with limited existence, (v) advisory committees of the bodies referred to in subdivisions (i), (ii), and (iii) of this subdivision, and (vi) instrumentalities exercising essentially public functions; and

(b) Public body does not include (i) subcommittees of such bodies unless a quorum of the public body attends a subcommittee meeting or unless such subcommittees are holding hearings, making policy, or taking formal action on behalf of their parent body, except that all meetings of any subcommittee established under section 81-15,175 are subject to the Open Meetings Act, (ii) entities conducting judicial proceedings unless a court or other judicial body is exercising rulemaking authority, deliberating, or deciding upon the issuance of administrative orders, and (iii) the Judicial Resources Commission or subcommittees or subgroups of the commission;

(2) Meeting means all regular, special, or called meetings, formal or informal, of any public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action of the public body; and

(3) Virtual conferencing means conducting or participating in a meeting electronically or telephonically with interaction among the participants subject to subsection (2) of section 84-1412.

**Source:** Laws 1975, LB 325, § 2; Laws 1983, LB 43, § 1; Laws 1989, LB 429, § 42; Laws 1989, LB 311, § 14; Laws 1992, LB 1019, § 124; Laws 1993, LB 635, § 1; Laws 1996, LB 1044, § 978; Laws 1997, LB 798, § 37; Laws 2004, LB 821, § 36; Laws 2007, LB296, § 810; Laws 2011, LB366, § 2; Laws 2021, LB83, § 11; Laws 2022, LB922, § 12.

**Operative Date: July 21, 2022**

**Annotations**

- A township is a political subdivision, and as such, a township board is subject to the provisions of the public meetings laws. *Steenblock v. Elkhorn Township Bd.*, 245 Neb. 722, 515 N.W.2d 128 (1994).
- A county agricultural society is a public body to which the provisions of the Nebraska public meetings law are applicable. *Nixon v. Madison Co. Ag. Soc'y*, 217 Neb. 37, 348 N.W.2d 119 (1984).
- Failure by a public governing body, as defined under section 84-1409, R.R.S.1943, to take and record a roll call vote on an action, as required by section 84-1413(2), R.S.Supp.,1980, grants any citizen the right to sue for the purpose of

having the action declared void. In this case such failure could not be later corrected by a nunc pro tunc order because there was no showing that a roll call vote on the disputed action was actually taken, and even if it was the record showed it was not recorded until over a year later. Sections 23-1301, R.R.S.1943, and 23-1302, R.R.S.1943, make it the duty of the county clerk to record proceedings of the board of county commissioners. *State ex rel. Schuler v. Dunbar*, 208 Neb. 69, 302 N.W.2d 674 (1981).

- Although a committee was a subcommittee of a natural resources district board, it was not subject to the Open Meetings Act because there was never a quorum of board members in attendance and the committee did not hold hearings, make policy, or take formal action on behalf of the board. *Koch v. Lower Loup NRD*, 27 Neb. App. 301, 931 N.W.2d 160 (2019).
- Although the Open Meetings Act does not define "subcommittee," a subcommittee is generally defined as a group within a committee to which the committee may refer business. *Koch v. Lower Loup NRD*, 27 Neb. App. 301, 931 N.W.2d 160 (2019).
- The Open Meetings Act does not require policymakers to remain ignorant of the issues they must decide until the moment the public is invited to comment on a proposed policy. By excluding nonquorum subgroups from the definition of a public body, the Legislature has balanced the public's need to be heard on matters of public policy with a practical accommodation for a public body's need for information to conduct business. *Koch v. Lower Loup NRD*, 27 Neb. App. 301, 931 N.W.2d 160 (2019).
- As an administrative agency of the county, a county board of equalization is a public body. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).
- The electors of a township at their annual meeting are a public body under the Open Meetings Act. *State ex rel. Newman v. Columbus Township Bd.*, 15 Neb. App. 656, 735 N.W.2d 399 (2007).
- The meeting at issue in this case was a "meeting" within the parameters of subsection (2) of this section because it involved the discussion of public business, the formation of tentative policy, or the taking of any action of the public power district. *Hansmeyer v. Nebraska Pub. Power Dist.*, 6 Neb. App. 889, 578 N.W.2d 476 (1998).
- Informational sessions in which the governmental body hears reports are briefings. *Johnson v. Nebraska Environmental Control Council*, 2 Neb. App. 263, 509 N.W.2d 21 (1993).

**84-1410. Closed session; when; purpose; reasons listed; procedure; right to challenge; prohibited acts; chance meetings, conventions, or workshops.**

(1) Any public body may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if such individual has not requested a public meeting. The subject matter and the reason necessitating the closed session shall be identified in the motion to close. Closed sessions may be held for, but shall not be limited to, such reasons as:

(a) Strategy sessions with respect to collective bargaining, real estate purchases, pending litigation, or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body;

(b) Discussion regarding deployment of security personnel or devices;

(c) Investigative proceedings regarding allegations of criminal misconduct;

(d) Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if such person has not requested a public meeting;

(e) For the Community Trust created under section 81-1801.02, discussion regarding the amounts to be paid to individuals who have suffered from a tragedy of violence or natural disaster; or

(f) For public hospitals, governing board peer review activities, professional review activities, review and discussion of medical staff investigations or disciplinary actions, and any strategy session concerning transactional negotiations with any referral source that is required by federal law to be conducted at arms length.

Nothing in this section shall permit a closed meeting for discussion of the appointment or election of a new member to any public body.

(2) The vote to hold a closed session shall be taken in open session. The entire motion, the vote of each member on the question of holding a closed session, and the time when the closed session commenced and concluded shall be recorded in the minutes. If the motion to close passes, then the presiding officer immediately prior to the closed session shall restate on the record the limitation of the subject matter of the closed session. The public body holding such a closed session shall restrict its consideration of matters during the closed portions to only those purposes set forth in the motion to close as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken. For purposes of this section, formal action shall mean a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order, or ordinance or formation of a position or policy but shall not include negotiating guidance given by members of the public body to legal counsel or other negotiators in closed sessions authorized under subdivision (1)(a) of this section.

(3) Any member of any public body shall have the right to challenge the continuation of a closed session if the member determines that the session has exceeded the reason stated in the original motion to hold a closed session or if the member contends that the closed session is neither clearly necessary for (a) the protection of the public interest or (b) the prevention of needless injury to the reputation of an individual. Such challenge shall be overruled only by a majority vote of the members of the public body. Such challenge and its disposition shall be recorded in the minutes.

(4) Nothing in this section shall be construed to require that any meeting be closed to the public. No person or public body shall fail to invite a portion of its members to a meeting, and no public body shall designate itself a subcommittee of the whole body for the purpose of circumventing the Open Meetings Act. No closed session, informal meeting, chance meeting, social gathering, email, fax, or other electronic communication shall be used for the purpose of circumventing the requirements of the act.

(5) The act does not apply to chance meetings or to attendance at or travel to conventions or workshops of members of a public body at which there is no meeting of the body then intentionally convened, if there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction, or advisory power.

**Source:** Laws 1975, LB 325, § 3; Laws 1983, LB 43, § 2; Laws 1985, LB 117, § 1; Laws 1992, LB 1019, § 125; Laws 1994, LB 621, § 1; Laws 1996, LB 900, § 1072; Laws 2004, LB 821, § 37; Laws 2004, LB 1179, § 1; Laws 2006, LB 898, § 1; Laws 2011, LB390, § 29; Laws 2012, LB995, § 17.

**Annotations**

- There is no absolute discovery privilege for communications that occur during a closed session. *State ex rel. Upper Republican NRD v. District Judges*, 273 Neb. 148, 728 N.W.2d 275 (2007).
- If a person present at a meeting observes a public meetings law violation in the form of an improper closed session and fails to object, that person waives his or her right to object at a later date. *Wasikowski v. Nebraska Quality Jobs Bd.*, 264 Neb. 403, 648 N.W.2d 756 (2002).
- The public interest mentioned in this section is that shared by citizens in general and by the community at large concerning pecuniary or legal rights and liabilities. *Grein v. Board of Education*, 216 Neb. 158, 343 N.W.2d 718 (1984).
- Hearing in closed executive session was contrary to this section since there was no showing of necessity or reason under subdivision (1)(a), (b), or (c), but did not result in reversal of board decision. *Simonds v. Board of Examiners*, 213 Neb. 259, 329 N.W.2d 92 (1983).
- Negotiations for the purchase of land need not be conducted at an open meeting but the deliberations of a city council as to whether an offer to purchase real estate

should be made should take place in an open meeting. *Pokorny v. City of Schuyler*, 202 Neb. 334, 275 N.W.2d 281 (1979).

- Public meeting law was not violated where the Board of Regents of the University of Nebraska voted to hold a closed session to consider the university president's resignation, and also discussed the appointment of an interim president during such session. *Meyer v. Board of Regents*, 1 Neb. App. 893, 510 N.W.2d 450 (1993).

**84-1411. Meetings of public body; notice; method; contents; when available; right to modify; duties concerning notice; virtual conferencing authorized; requirements; emergency meeting without notice; appearance before public body.**

(1)(a) Each public body shall give reasonable advance publicized notice of the time and place of each meeting as provided in this subsection. Such notice shall be transmitted to all members of the public body and to the public.

(b)(i) Except as provided in subdivision (1)(b)(ii) of this section, in the case of a public body described in subdivision (1)(a)(i) of section 84-1409 or such body's advisory committee, such notice shall be published in a newspaper of general circulation within the public body's jurisdiction and, if available, on such newspaper's website.

(ii) In the case of the governing body of a city of the second class or village or such body's advisory committee, such notice shall be published by:

(A) Publication in a newspaper of general circulation within the public body's jurisdiction and, if available, on such newspaper's website; or

(B) Posting written notice in three conspicuous public places in such city or village. Such notice shall be posted in the same three places for each meeting.

(iii) In the case of a public body not described in subdivision (1)(b)(i) or (ii) of this section, such notice shall be given by a method designated by the public body.

(c) In addition to a method of notice required by subdivision (1)(b)(i) or (ii) of this section, such notice may also be provided by any other appropriate method designated by such public body or such advisory committee.

(d) Each public body shall record the methods and dates of such notice in its minutes.

(e) Such notice shall contain an agenda of subjects known at the time of the publicized notice or a statement that the agenda, which shall be kept continually current, shall be readily available for public inspection at the principal office of the public body during normal business hours. Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting. Except for items of an emergency nature, the agenda shall not be altered later than (i) twenty-four hours before the scheduled commencement of the meeting or

(ii) forty-eight hours before the scheduled commencement of a meeting of a city council or village board scheduled outside the corporate limits of the municipality. The public body shall have the right to modify the agenda to include items of an emergency nature only at such public meeting.

(2)(a) The following entities may hold a meeting by means of virtual conferencing if the requirements of subdivision (2)(b) of this section are met:

(i) A state agency, state board, state commission, state council, or state committee, or an advisory committee of any such state entity;

(ii) An organization, including the governing body, created under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act;

(iii) The governing body of a public power district having a chartered territory of more than one county in this state;

(iv) The governing body of a public power and irrigation district having a chartered territory of more than one county in this state;

(v) An educational service unit;

(vi) The Educational Service Unit Coordinating Council;

(vii) An organization, including the governing body, of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act;

(viii) A community college board of governors;

(ix) The Nebraska Brand Committee;

(x) A local public health department;

(xi) A metropolitan utilities district;

(xii) A regional metropolitan transit authority; and

(xiii) A natural resources district.

(b) The requirements for holding a meeting by means of virtual conferencing are as follows:

(i) Reasonable advance publicized notice is given as provided in subsection (1) of this section, including providing access to a dial-in number or link to the virtual conference;

(ii) In addition to the public's right to participate by virtual conferencing, reasonable arrangements are made to accommodate the public's right to attend at a physical site and participate as provided in section 84-1412, including reasonable seating, in at least one designated site in a building open to the public and identified in the notice, with: At least one member of the entity holding such meeting, or his or her designee, present at each site; a

recording of the hearing by audio or visual recording devices; and a reasonable opportunity for input, such as public comment or questions, is provided to at least the same extent as would be provided if virtual conferencing was not used;

(iii) At least one copy of all documents being considered at the meeting is available at any physical site open to the public where individuals may attend the virtual conference. The public body shall also provide links to an electronic copy of the agenda, all documents being considered at the meeting, and the current version of the Open Meetings Act; and

(iv) Except as otherwise provided in this subdivision or subsection (4) of section 79-2204, no more than one-half of the meetings of the state entities, advisory committees, boards, councils, organizations, or governing bodies are held by virtual conferencing in a calendar year. In the case of an organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis or an organization created under the Municipal Cooperative Financing Act, the organization may hold more than one-half of its meetings by virtual conferencing if such organization holds at least one meeting each calendar year that is not by virtual conferencing. The governing body of a risk management pool that meets at least quarterly and the advisory committees of the governing body may each hold more than one-half of its meetings by virtual conferencing if the governing body's quarterly meetings are not held by virtual conferencing.

(3) Virtual conferencing, emails, faxes, or other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

(4) The secretary or other designee of each public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed at that meeting.

(5) When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by virtual conferencing. The provisions of subsection (4) of this section shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day.

(6) A public body may allow a member of the public or any other witness to appear before the public body by means of virtual conferencing.

(7)(a) Notwithstanding subsections (2) and (5) of this section, if an emergency is declared by the Governor pursuant to the Emergency Management Act as defined in section 81-829.39, a public body the territorial jurisdiction of which is included in the emergency declaration, in whole or in part, may hold a meeting by virtual conferencing during such emergency if the

public body gives reasonable advance publicized notice as described in subsection (1) of this section. The notice shall include information regarding access for the public and news media. In addition to any formal action taken pertaining to the emergency, the public body may hold such meeting for the purpose of briefing, discussion of public business, formation of tentative policy, or the taking of any action by the public body.

(b) The public body shall provide access by providing a dial-in number or a link to the virtual conference. The public body shall also provide links to an electronic copy of the agenda, all documents being considered at the meeting, and the current version of the Open Meetings Act. Reasonable arrangements shall be made to accommodate the public's right to hear and speak at the meeting and record the meeting. Subsection (4) of this section shall be complied with in conducting such meetings.

(c) The nature of the emergency shall be stated in the minutes. Complete minutes of such meeting specifying the nature of the emergency and any formal action taken at the meeting shall be made available for inspection as provided in subsection (5) of section 84-1413.

(8) In addition to any other statutory authorization for virtual conferencing, any public body not listed in subdivision (2)(a) of this section may hold a meeting by virtual conferencing if:

(a) The purpose of the virtual meeting is to discuss items that are scheduled to be discussed or acted upon at a subsequent non-virtual open meeting of the public body;

(b) No action is taken by the public body at the virtual meeting; and

(c) The public body complies with subdivisions (2)(b)(i) and (2)(b)(ii) of this section.

**Source:** Laws 1975, LB 325, § 4; Laws 1983, LB 43, § 3; Laws 1987, LB 663, § 25; Laws 1993, LB 635, § 2; Laws 1996, LB 469, § 6; Laws 1996, LB 1161, § 1; Laws 1999, LB 47, § 2; Laws 1999, LB 87, § 100; Laws 1999, LB 461, § 1; Laws 2000, LB 968, § 85; Laws 2004, LB 821, § 38; Laws 2004, LB 1179, § 2; Laws 2006, LB 898, § 2; Laws 2007, LB199, § 9; Laws 2009, LB361, § 2; Laws 2012, LB735, § 1; Laws 2013, LB510, § 1; Laws 2017, LB318, § 1; Laws 2019, LB212, § 5; Laws 2020, LB148, § 3; Laws 2021, LB83, § 12; Laws 2022, LB742, § 1; Laws 2022, LB908, § 1; Laws 2022, LB922, § 13.

**Note:** The Revisor of Statutes has pursuant to section 49-769 correlated LB742, section 1, with LB908, section 1, and LB922, section 13, to reflect all amendments.

**Note:** Changes made by LB742 and LB908 became effective July 21, 2022. Changes made by LB922 became operative July 21, 2022.

### **Cross References**

- **Intergovernmental Risk Management Act**, see section 44-4301.
- **Interlocal Cooperation Act**, see section 13-801.
- **Joint Public Agency Act**, see section 13-2501.

- **Municipal Cooperative Financing Act**, see section 18-2401.

#### **Annotations**

- Under subsection (1) of this section, the Legislature has imposed only two conditions on the public body's notification method of a public meeting: (1) It must give reasonable advance publicized notice of the time and place of each meeting and (2) it must be recorded in the public body's minutes. *City of Elkhorn v. City of Omaha*, 272 Neb. 867, 725 N.W.2d 792 (2007).
- An emergency is "(a)ny event or occasional combination of circumstances which calls for immediate action or remedy; pressing necessity; exigency; a sudden or unexpected happening; an unforeseen occurrence or condition." *Steenblock v. Elkhorn Township Bd.*, 245 Neb. 722, 515 N.W.2d 128 (1994).
- An agenda which gives reasonable notice of the matters to be considered at a meeting of a city council complies with the requirements of this section. *Pokorny v. City of Schuyler*, 202 Neb. 334, 275 N.W.2d 281 (1979).
- When notice is required, a notice of a special meeting of a city council posted in three public places at 10:00 p.m. on the day preceding the meeting is not reasonable advance publicized notice of a meeting as is required by this section. *Pokorny v. City of Schuyler*, 202 Neb. 334, 275 N.W.2d 281 (1979).
- Teacher waived right to object to lack of public notice in board of education employment hearing by voluntary participation in the hearing without objection. *Alexander v. School Dist. No. 17*, 197 Neb. 251, 248 N.W.2d 335 (1976).
- A county board of commissioners and a county board of equalization are not required to give separate notices when the notice states only the time and place that the boards meet and directs a citizen to where the agendas for each board can be found. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).
- A county board of equalization is a public body which is required to give advanced publicized notice of its meetings. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).
- Notice of recessed and reconvened meetings must be given in the same fashion as the original meeting. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).
- True notice of a meeting is not given by burying such in the minutes of a prior board proceeding. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).
- An agenda notice which merely stated "work order reports" was an inadequate notice under this section because it did not give interested persons knowledge that plans for a 345 kv transmission line through the district was going to be discussed and voted upon at the meeting. Inadequate agenda notice under this section meant there was a substantial violation of the public meeting laws; however, later actions by the board of directors cured the defects in notice, and such actions were in substantial compliance with the statute. *Hansmeyer v. Nebraska Pub. Power Dist.*, 6 Neb. App. 889, 578 N.W.2d 476 (1998).

**84-1412. Meetings of public body; rights of public; public body; powers and duties.**

(1) Subject to the Open Meetings Act, the public has the right to attend and the right to speak at meetings of public bodies, and all or any part of a meeting of a public body, except for closed sessions called pursuant to section 84-1410, may be videotaped, televised, photographed, broadcast, or recorded by any person in attendance by means of a tape recorder, a camera, video equipment, or any other means of pictorial or sonic reproduction or in writing.

(2) It shall not be a violation of subsection (1) of this section for any public body to make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting, or recording its meetings, including meetings held by virtual conferencing. A body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings.

(3) No public body shall require members of the public to identify themselves as a condition for admission to the meeting nor shall such body require that the name of any member of the public be placed on the agenda prior to such meeting in order to speak about items on the agenda. The body shall require any member of the public desiring to address the body to identify himself or herself, including an address and the name of any organization represented by such person unless the address requirement is waived to protect the security of the individual.

(4) No public body shall, for the purpose of circumventing the Open Meetings Act, hold a meeting in a place known by the body to be too small to accommodate the anticipated audience.

(5) No public body shall be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this state.

(6) No public body shall be deemed in violation of this section if it holds a meeting outside of this state if, but only if:

(a) A member entity of the public body is located outside of this state and the meeting is in that member's jurisdiction;

(b) All out-of-state locations identified in the notice are located within public buildings used by members of the entity or at a place which will accommodate the anticipated audience;

(c) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including making virtual conferencing available at an in-state location to members, the public, or the press, if requested twenty-four hours in advance;

(d) No more than twenty-five percent of the public body's meetings in a calendar year are held out-of-state;

(e) Out-of-state meetings are not used to circumvent any of the public government purposes established in the Open Meetings Act; and

(f) The public body publishes notice of the out-of-state meeting at least twenty-one days before the date of the meeting in a legal newspaper of statewide circulation.

(7) Each public body shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at a meeting.

(8) Public bodies shall make available at the meeting or the in-state location for virtual conferencing as required by subdivision (6)(c) of this section, for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at an open meeting, either in paper or electronic form. Public bodies shall make available at least one current copy of the Open Meetings Act posted in the meeting room at a location accessible to members of the public. At the beginning of the meeting, the public shall be informed about the location of the posted information.

**Source:** Laws 1975, LB 325, § 5; Laws 1983, LB 43, § 4; Laws 1985, LB 117, § 2; Laws 1987, LB 324, § 5; Laws 1996, LB 900, § 1073; Laws 2001, LB 250, § 2; Laws 2004, LB 821, § 39; Laws 2006, LB 898, § 3; Laws 2008, LB962, § 1; Laws 2021, LB83, § 13.

**Annotations**

- To preserve an objection that a public body failed to make documents available at a public meeting as required by subsection (8) of this section, a person who attends a public meeting must not only object to the violation, but must make that objection to the public body or to a member of the public body. *Stoetzel & Sons v. City of Hastings*, 265 Neb. 637, 658 N.W.2d 636 (2003).

**84-1413. Meetings; minutes; roll call vote; secret ballot; when; agenda and minutes; required on website; when.**

(1) Each public body shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed.

(2) Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the public body in open session, and the record shall state how each member voted or if the member was absent or not voting. The requirements of a roll call or viva voce vote shall be satisfied by a public body which utilizes an electronic voting device which allows the yeas and nays of each member of such public body to be readily seen by the public.

(3) The vote to elect leadership within a public body may be taken by secret ballot, but the total number of votes for each candidate shall be recorded in the minutes.

(4) The minutes of all meetings and evidence and documentation received or disclosed in open session shall be public records and open to public inspection during normal business hours.

(5) Minutes shall be written or kept as an electronic record and shall be available for inspection within ten working days or prior to the next convened meeting, whichever occurs

earlier, except that cities of the second class and villages may have an additional ten working days if the employee responsible for writing or keeping the minutes is absent due to a serious illness or emergency.

(6) Beginning July 31, 2022, the governing body of a natural resources district, the city council of a city of the metropolitan class, the city council of a city of the primary class, the city council of a city of the first class, the county board of a county with a population greater than twenty-five thousand inhabitants, and the school board of a school district shall make available on such entity's public website the agenda and minutes of any meeting of the governing body. The agenda shall be placed on the website at least twenty-four hours before the meeting of the governing body. Minutes shall be placed on the website at such time as the minutes are available for inspection as provided in subsection (5) of this section. This information shall be available on the public website for at least six months.

**Source:** Laws 1975, LB 325, § 6; Laws 1978, LB 609, § 3; Laws 1979, LB 86, § 9; Laws 1987, LB 663, § 26; Laws 2005, LB 501, § 1; Laws 2009, LB361, § 3; Laws 2015, LB365, § 2; Laws 2016, LB876, § 1; Laws 2021, LB83, § 14; Laws 2022, LB742, § 2.

**Effective Date: July 21, 2022**

**Annotations**

- If a person present at a meeting observes and fails to object to an alleged public meetings laws violation in the form of a failure to conduct rollcall votes before taking actions on questions or motions pending, that person waives his or her right to object at a later date. *Hauser v. Nebraska Police Stds. Adv. Council*, 264 Neb. 944, 653 N.W.2d 240 (2002).
- Subsection (2) of this section does not require the record to state that the vote was by roll call, but requires only that the record show if and how each member voted. Neither does the statute set a time limit for recording the results of a vote, after which no corrections of the record can be made. If no intervening rights of third persons have arisen, a board of county commissioners has power to correct the record of the proceedings had at a previous meeting so as to make them speak the truth, particularly where the correction supplies some omitted fact or action and is done not to contradict or change the original record but to have the record show that a certain action was taken or thing done, which the original record fails to show. *State ex rel. Schuler v. Dunbar*, 214 Neb. 85, 333 N.W.2d 652 (1983).
- Failure by a public governing body, as defined under section 84-1409, R.R.S.1943, to take and record a roll call vote on an action, as required by section 84-1413(2), R.S.Supp.,1980, grants any citizen the right to sue for the purpose of having the action declared void. In this case such failure could not be later corrected by a nunc pro tunc order because there was no showing that a roll call vote on the disputed action was actually taken, and even if it was the record showed it was not recorded until over a year later. Sections 23-1301, R.R.S.1943,

and 23-1302, R.R.S.1943, make it the duty of the county clerk to record proceedings of the board of county commissioners. *State ex rel. Schuler v. Dunbar*, 208 Neb. 69, 302 N.W.2d 674 (1981).

- There is no requirement that a public body make a record of where notice was published or posted. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).

**84-1414. Unlawful action by public body; declared void or voidable by district court; when; duty to enforce open meeting laws; citizen's suit; procedure; violations; penalties.**

(1) Any motion, resolution, rule, regulation, ordinance, or formal action of a public body made or taken in violation of the Open Meetings Act shall be declared void by the district court if the suit is commenced within one hundred twenty days of the meeting of the public body at which the alleged violation occurred. Any motion, resolution, rule, regulation, ordinance, or formal action of a public body made or taken in substantial violation of the Open Meetings Act shall be voidable by the district court if the suit is commenced more than one hundred twenty days after but within one year of the meeting of the public body in which the alleged violation occurred. A suit to void any final action shall be commenced within one year of the action.

(2) The Attorney General and the county attorney of the county in which the public body ordinarily meets shall enforce the Open Meetings Act.

(3) Any citizen of this state may commence a suit in the district court of the county in which the public body ordinarily meets or in which the plaintiff resides for the purpose of requiring compliance with or preventing violations of the Open Meetings Act, for the purpose of declaring an action of a public body void, or for the purpose of determining the applicability of the act to discussions or decisions of the public body. It shall not be a defense that the citizen attended the meeting and failed to object at such time. The court may order payment of reasonable attorney's fees and court costs to a successful plaintiff in a suit brought under this section.

(4) Any member of a public body who knowingly violates or conspires to violate or who attends or remains at a meeting knowing that the public body is in violation of any provision of the Open Meetings Act shall be guilty of a Class IV misdemeanor for a first offense and a Class III misdemeanor for a second or subsequent offense.

**Source:** Laws 1975, LB 325, § 9; Laws 1977, LB 39, § 318; Laws 1983, LB 43, § 5; Laws 1992, LB 1019, § 126; Laws 1994, LB 621, § 2; Laws 1996, LB 900, § 1074; Laws 2004, LB 821, § 40; Laws 2006, LB 898, § 4.

**Annotations**

- The Legislature has granted standing to a broad scope of its citizens for the very limited purpose of challenging meetings allegedly in violation of the Open Meetings Act, so that they may help police the public policy embodied by the act. *Schauer v. Grooms*, 280 Neb. 426, 786 N.W.2d 909 (2010).

- Any citizen of the state may commence an action to declare a public body's action void. *City of Elkhorn v. City of Omaha*, 272 Neb. 867, 725 N.W.2d 792 (2007).
- The reading of ordinances constitutes a formal action under subsection (1) of this section. *City of Elkhorn v. City of Omaha*, 272 Neb. 867, 725 N.W.2d 792 (2007).
- If a person present at a meeting observes a public meetings law violation in the form of an improper closed session and fails to object, that person waives his or her right to object at a later date. *Wasikowski v. Nebraska Quality Jobs Bd.*, 264 Neb. 403, 648 N.W.2d 756 (2002).
- Under the Public Meetings Act, a county lacks capacity to maintain an action to declare its official conduct "void" for noncompliance with the act. *County of York v. Johnson*, 230 Neb. 403, 432 N.W.2d 215 (1988).
- When a petitioner under this section is successful in the district court, that court may allow attorney fees. *Tracy Corp. II v. Nebraska Pub. Serv. Comm.*, 218 Neb. 900, 360 N.W.2d 485 (1984).
- Informal discussions between the Tax Commissioner and the State Board of Equalization in which instructions were clarified, with such clarification leading to the amendment of hearing notices, did not constitute a public meeting subject to the provisions of this section. *Box Butte County v. State Board of Equalization and Assessment*, 206 Neb. 696, 295 N.W.2d 670 (1980).
- The right to collaterally attack an order made in contravention of the Public Meeting Act must occur within a period of one year as is specifically provided by this section. *Witt v. School District No. 70*, 202 Neb. 63, 273 N.W.2d 669 (1979).
- Statutory change, requiring "publicized notice" for board of education employment hearings, occurring between dates meeting scheduled and conducted, held not to void proceedings. *Alexander v. School Dist. No. 17*, 197 Neb. 251, 248 N.W.2d 335 (1976).
- Voiding an entire meeting is a proper remedy for violations of the Open Meetings Act. Once a meeting has been declared void pursuant to Nebraska's public meetings law, board members are prohibited from considering any information obtained at the illegal meeting. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).
- Actions by the board of directors were merely voidable under this section, and not void. Pursuant to subsection (3) of this section, the plaintiffs were awarded partial attorney fees because they were successful in having the court declare that the board of directors was in substantial violation of the statute, even though the plaintiffs did not get the relief requested of having the board's actions declared void. *Hansmeyer v. Nebraska Pub. Power Dist.*, 6 Neb. App. 889, 578 N.W.2d 476 (1998).

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Source: [http://nebraskalegislature.gov/laws/display\\_html.php?begin\\_section=84-1407&end\\_section=84-1414](http://nebraskalegislature.gov/laws/display_html.php?begin_section=84-1407&end_section=84-1414)

Date: July 2022

**2. Emergency medical services for Duncan Rural Fire District and Columbus Rural Fire District.**

**Columbus Fire Department  
Memorandum  
For Record**

**DATE:** 31 May 2023  
**TO:** Tara Vasicek, City Administrator  
**FROM:** Ryan Gray, Fire Chief  
**RE:** EMS to Platte County

**RECOMMENDATION:**

Staff is looking for guidance from Council as it pertains to the City providing primary Emergency Medical Services (EMS) to Duncan Rural Fire District and Columbus Rural Fire District.

**DISCUSSION:**

Staff has been working for quite a number of months trying to establish a long-term solution for the City to continue to provide EMS to Duncan and Columbus Rural Fire Districts. There have been many meetings with the work group to work on a solution, and we are at a point where Council should decide how to proceed.

We have been offered a 2-year conditional agreement for \$300,000/year by Duncan and Columbus Rural Fire Districts to continue to provide EMS to their respective areas, while they consider other long-term solutions. Staff has held firm that the solution is \$600,000/year in perpetuity, in order to hire and train 6 additional Firefighter/Paramedic to staff a second ambulance 24/7/365.

We are asking that Council provide guidance and make a determination on how they wish for us to proceed at this point.


**FISCAL IMPACT:**


Currently Unknown

**ALTERNATIVES:**

To be discussed.

**SIGNATURE:**

BY:  \_\_\_\_\_

CITY ADMINISTRATOR:  \_\_\_\_\_



# Emergency Medical Services to Platte County

(Columbus and Duncan Rural Fire Districts)

# Background

- For as long as anyone can remember, the City of Columbus has provided primary EMS response to the Columbus and Duncan Rural Fire Districts without charging for those services.
- Attempts to locate a signed agreement pertaining to this have been unsuccessful.
- Our overall call volume has increased by 14.58% since 2018
- Our fire calls have seen a 80.09% increase since 2018, making it hard to sacrifice staffing on suppression apparatus to make EMS runs.
- Columbus Rural makes up 10.47% of our total calls, 61.83% of those are EMS in nature.
- Duncan Rural makes up 2.04% of our total calls, 80.85% of those are EMS in nature.

# Background (cont.)

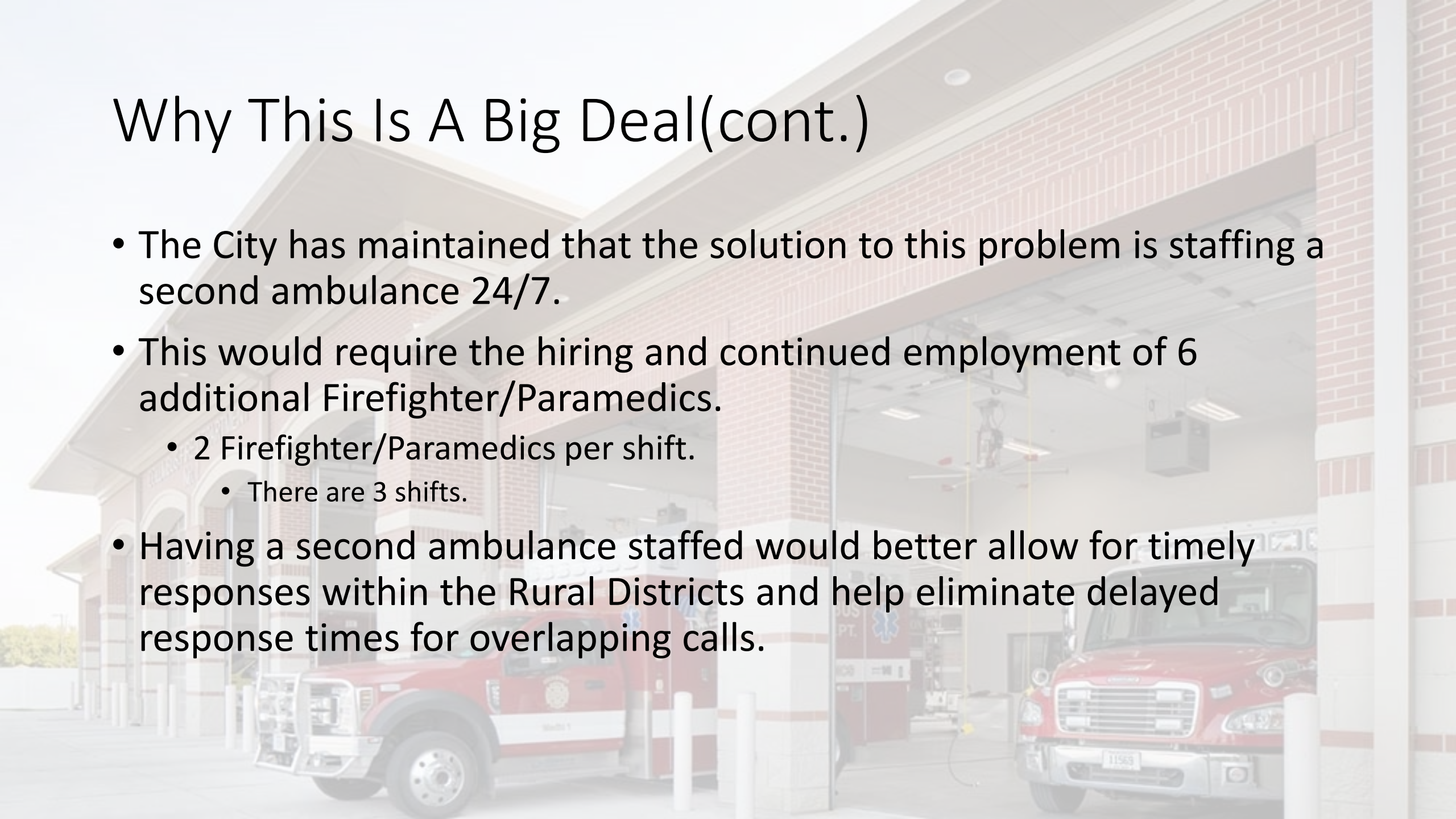
- Currently the City of Columbus is under contract with Columbus Rural Fire District, and is required to respond to fire calls within the district, however explicitly states:
  - “Although the Municipality, at its discretion may provide Emergency Medical Services and response to locations within the District and outside the Municipality's corporate limits, this Agreement in no way includes Emergency Medical Services nor does it bind the Municipality or the Municipality’s Fire Department to do so.”
- Additionally, we do have a MOU with Duncan through the Mid-Nebraska Volunteer Fire/Rescue Association to provide Mutual Aid, however it explicitly states:
  - “FOURTH, it is mutually understood and agreed that this agreement does not relieve either party from the necessity and obligation of providing adequate FIRE/EMS protection within its own jurisdiction.”

# Why This Is A Big Deal

- According to Nebraska State Legislature, EMS are not an essential service, therefore there is no requirement for any agency to provide these services to their citizens.
- We all recognize the impact that EMS has on our community, and although not essential by state statute, we all realize it truly is an essential and life saving service.
- As a department of the City, we are funded by the taxes collected from City residents, therefore responsible to them to be fiscally responsible with their money.
- As we currently sit, our citizens are paying to provide service to areas outside of City limits that do not pay their share.

# Why This Is A Big Deal(cont.)

- The City has maintained that the solution to this problem is staffing a second ambulance 24/7.
- This would require the hiring and continued employment of 6 additional Firefighter/Paramedics.
  - 2 Firefighter/Paramedics per shift.
  - There are 3 shifts.
- Having a second ambulance staffed would better allow for timely responses within the Rural Districts and help eliminate delayed response times for overlapping calls.

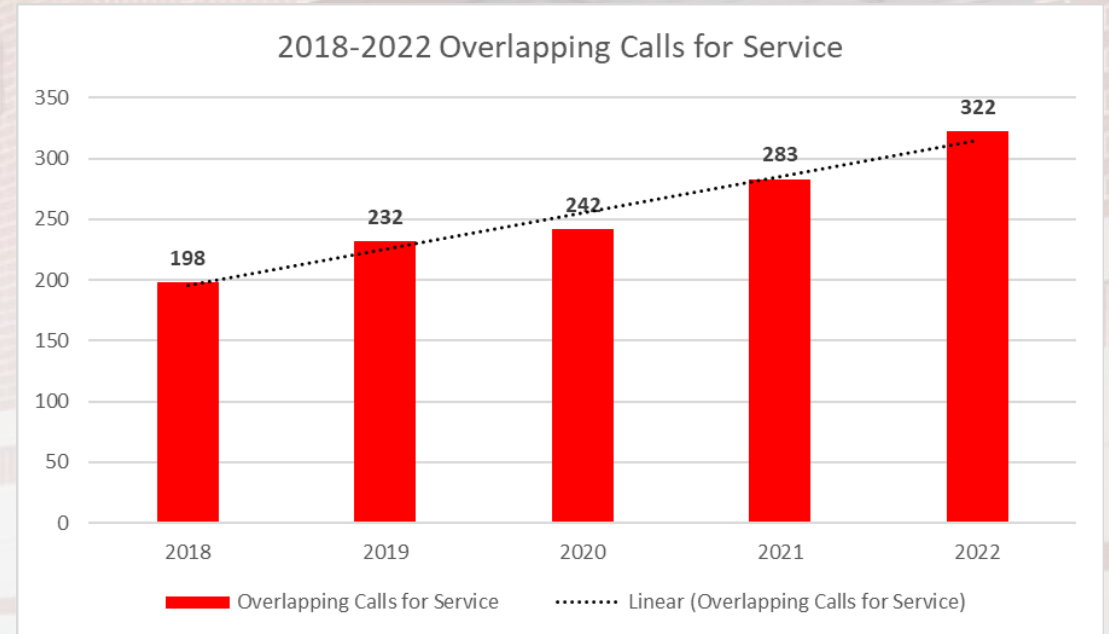
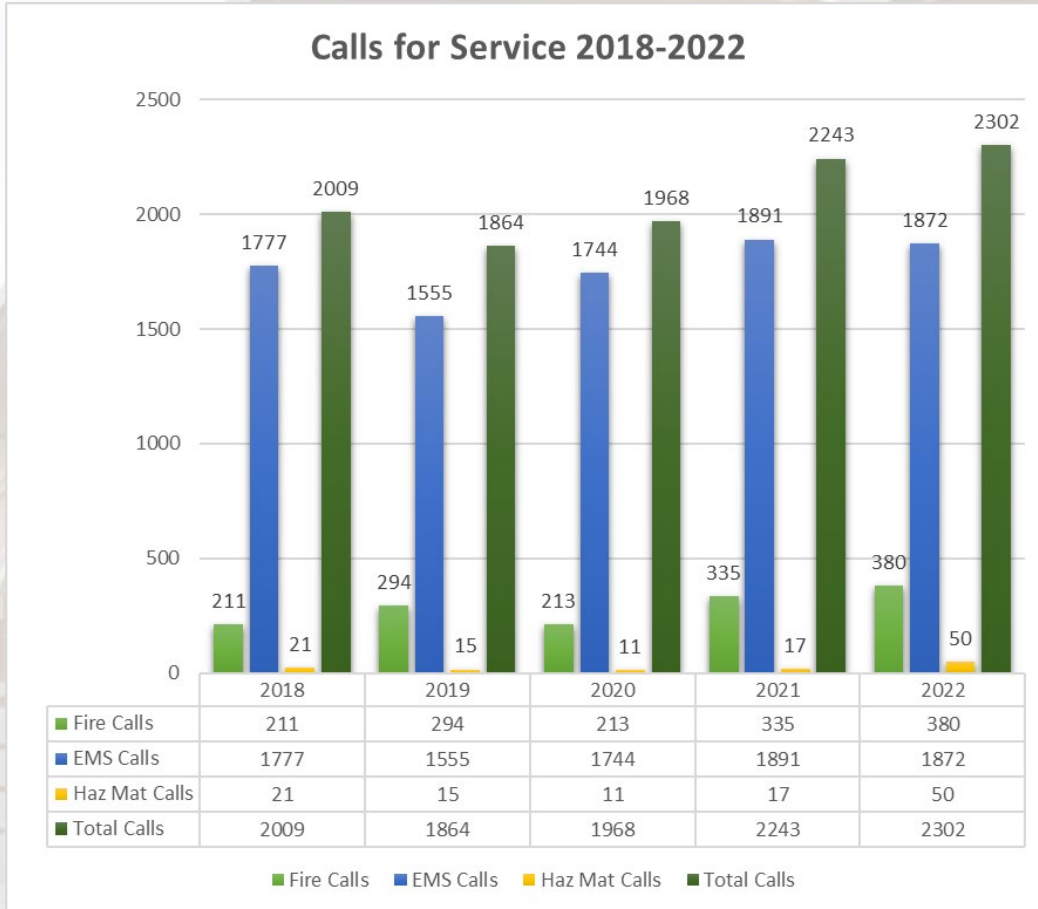


# Breakdown of CFD

- Current career staffing consists of 6 personnel per shift.
  - 1 person is allowed off per day on vacation. Overtime or Paid Reserves are used to cover vacancies left by unscheduled leave, such as sick time.
- Daily Staffing generally consists of:
  - 4 persons assigned to a Fire Engine(3 assigned if someone is off)
  - 2 persons assigned to the medic unit
  - 2 Chiefs work during the day Mon-Fri and rotate on-call time outside of business hours.
- By increasing our staffing by 6, we would add a second staffed medic unit.

# Call Statistics

*Since 2018, we have had an overall increase in calls of 14.58%*



*Our average increase of overlapping calls is 13.05% annually*

# Timeline

August 31, 2022

Tara and Ryan met to discuss EMS to Rural Districts

September 22, 2022

Tara and Ryan met with Kim K. to discuss EMS to Rural Districts

September 29, 2022

Work group was established and had our first meeting.

January 23, 2023

Second work group meeting, City made initial offer.

February 20, 2023

Meeting cancelled at request of Platte County

March 15, 2023

Work group meeting, County made counter offer

March 30 & 31, 2023

Small group meetings with Council to discuss County's offer

May 11, 2023

Work group meeting to discuss City's counter-offer

May 25, 2023

Board of Supervisors Meeting

June 5, 2023

Committee of the Whole



# Work Group Members

- Jim Bulkley, Mayor
- Tara Vasicek, City Administrator
- Troy Heimer, Councilman
- Charlie Bahr, Councilman
- Ryan Gray, Fire Chief
- Nathan Jones, Assistant Fire Chief
- Kim Kwapnioski, Board of Supervisors
- Jerry Engdahl, Board of Supervisors
- Columbus Rural Fire District Representatives
- Duncan Rural Fire District Representatives

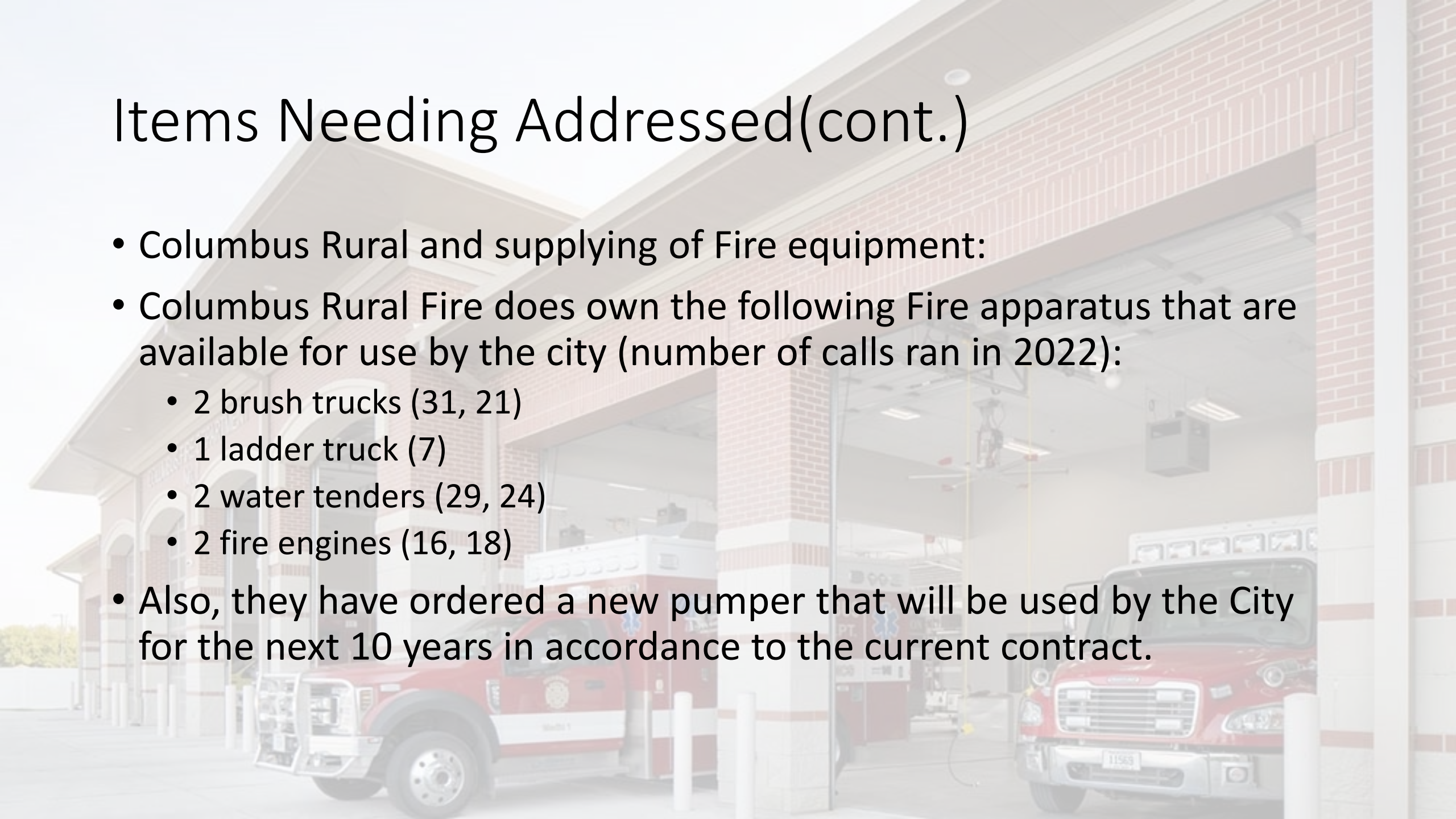


# Items Needing Addressed

- Billing for services:
  - Yes, the Fire Department does charge patients and their insurance for services rendered. Not only is this a way to reduce the burden on taxpayers, but an industry standard across the country.
  - Funds received by billing are not enough to cover actual costs of providing the service.
    - In FY 2022, our total net payments from medical billing was only \$465,801. This amount doesn't even cover the annual cost of salaries and benefits for 5 Firefighter/Paramedics. Our net expenditures for FY 2022, less capital items were \$720,960.
    - We also must consider the costs of equipment, medications, apparatus, apparatus and equipment maintenance, training, and disposables.
  - We lose money on EMS, but understand it is the cost of doing business, but we cannot afford to continue to spend City taxpayers funds to provide service outside the City.

# Items Needing Addressed(cont.)

- Columbus Rural and supplying of Fire equipment:
- Columbus Rural Fire does own the following Fire apparatus that are available for use by the city (number of calls ran in 2022):
  - 2 brush trucks (31, 21)
  - 1 ladder truck (7)
  - 2 water tenders (29, 24)
  - 2 fire engines (16, 18)
- Also, they have ordered a new pumper that will be used by the City for the next 10 years in accordance to the current contract.



# Items Needing Addressed(cont.)

- Having access to their apparatus for us is beneficial, however: by stating that Columbus Rural has been “instrumental” in providing equipment, as stated at the BOS meeting is not entirely accurate. The provided apparatus are not EMS apparatus, and use is covered in the contract.
- Even with Columbus Rural supplying those apparatus, the City provides to them:
  - Turnout gear
  - Training
  - Radios and Communication Equipment
  - Self Contained Breathing Apparatus
  - Tools and equipment to be placed on their apparatus.
  - Hoses, nozzles, water appliances (CRFD will be supplying the new engine with Large Diameter Hose at their cost)
  - Insurance coverages (reimbursed by CRFD)
- These items come at a significant cost to the City.
- It should also be noted that the overwhelming majority of times CRFD apparatus are utilized, they are being used by City personnel. CRFD currently has a roster of 7 members.

# Items Needing Addressed(cont.)

- Mutual Finance Organization (MFO)
  - Last year the City did extensive research into whether or not an MFO would be possible.
  - After going round and round with the State Treasurers Office, it was determined that Platte County and the City of Columbus would not be eligible to participate unless all of the Rural Fire Districts in Platte County and the City were to participate.
  - Emails, phone calls, and text messages were sent to all departments and although some interest was generated, there were several departments who did not answer or were not interested in joining. Therefore making it impossible to work.
  - The attorney representing CRFD and DRFD was correct in his statements that MFOs are based on population, which is exactly why we cannot participate.
  - You can be rest assured that all of the necessary research was completed to ensure there was no way to make this work.

# Items Needing Addressed(cont.)

- **County-Wide Levy**

- The City is not proposing a County-Wide levy to fund EMS to the affected Rural Districts.
- The numbers provided at the Board of Supervisors meeting by Mayor Bulkley (\$0.019 and \$0.038/\$100 of valuation) were only for Columbus and Duncan Rural Fire Districts.
- We also agree with the County, that a County-Wide levy to fund EMS within these districts would not be fair to the residents of other districts who do not use CFD as the primary EMS response agency.
- It should be noted that in FY 2022, the City's EMS levy was \$0.03815/\$100 of valuation. We are simply asking for the same from the affected districts.

# Where Do We Stand?

- The City has held firm and believes that the only solution to this problem is the staffing of a second ambulance.
  - In order to staff the additional ambulance the City is requesting an agreement in perpetuity to cover the cost of salaries and benefits for 6 additional Firefighter/Paramedics. In 2023 that cost is approximately \$600,000.
- The Rural Fire Districts have countered with a 2 year conditional agreement of \$300,000 per year.
- The City recognizes and appreciates the willingness of the Rural Districts to fund half of the requested amount, but firmly believes that this is not a sustainable solution.

# Where Do We Stand?

- The City requested that Platte County fund the additional \$300,000 to make up the difference.
- The City also requested Platte County put this to a vote of the people in the affected districts if the County refused to contribute the additional \$300,000.
- Additionally we want to see a long term agreement, so the City is not faced with having to hire and train new employees just to terminate them after the 2 year agreement is ended.
- The County has made it clear that at this time they are not willing to fund the additional \$300,000.

# Considerations Moving Forward

- Council must consider the current offer from the Rural Districts.
  - 2 year conditional agreement in the amount of \$300,000 per year.
- Understand that 6 additional personnel are required.
- If negotiations fail, what actions will the City take.
  - Cease service outside of City limits, if so, when?
  - Continue to operate as we do now with no increase in staff
  - Counter-offer to Platte County
  - Deadline for final decision from Platte County

# Closing

The background of the slide is a photograph of a fire station. Two red fire trucks are parked in the bays. The station has a brick facade with white accents. The image is semi-transparent, allowing the text to be overlaid.

- The City is willing to continue to provide this life-saving service to residents and businesses outside of the City limits, but can no longer afford to do so with the financial burden being on City residents.
- An additional staffed ambulance is the only solution that we believe truly solves this problem.
- We believe that \$600,000 is a reasonable ask, considering the level of service that is being offered.
- The burden of providing these services should not fall on the City. The responsibility of the City is to provide services to the residents and business that pay taxes to the City.



# The End

Questions?

### **3. Implementation of Discretionary Capital Improvement Project policy.**



# The City of Columbus

RESPONSIBLE • RESPONSIVE • REPUTABLE

Administration Office (402) 562-4232

Fax (402) 563-1380

## MEMORANDUM

**DATE:** May 31, 2023

**FROM:** Jim Bulkley, Mayor & Tara Vasicek, City Administrator

**TO:** Columbus City Council, sitting as Committee of the Whole

**RE:** Discretionary Capital Improvement Project Policy

### RECOMMENDATION:

Recommend to the Mayor and City Council that the Discretionary Capital Improvement Project Policy be adopted.

### DISCUSSION:

The Mayor and I have been discussing how project development can be updated to increase elected official participation and overall community engagement. The annual capital improvement plan projects can be broken down into two main categories, necessary and discretionary. It is the discretionary capital improvement projects that require the most transparency and engagement for the projects to be a success.

We believe there will be many benefits to adopting the Discretionary Capital Improvement Project Policy including:

- Representation of the public interest: Elected officials are responsible for representing the interests of their constituents. Capital improvement projects often have a significant impact on the community, and elected officials play a crucial role in ensuring that the projects align with the needs and aspirations of the people they represent. Their involvement helps to ensure that the projects prioritize the well-being and development of the community.
- Accountability and transparency: Elected officials bring a level of accountability and transparency to capital improvement projects. They are accountable to the public and can be held responsible for the decisions made regarding the projects. Their involvement helps to ensure that the decision-making process is transparent and follows established procedures. This transparency will promote public trust and confidence in the projects.
- Allocation of resources: Elected officials are responsible for making decisions about the allocation of public resources, including funding for capital improvement projects. Their involvement ensures that the allocation of resources is fair, equitable, and based on the priorities of the community. They can consider competing demands for resources, balance the needs of different sectors, and make informed decisions that best serve the overall interests of the community.
- Public engagement and representation: Elected officials provide a platform for public engagement and representation in capital improvement projects. They act as a bridge between the community and project stakeholders, facilitating dialogue, and ensuring that the voices and concerns of the public are heard and considered. Their involvement helps to foster a sense of ownership and inclusivity, creating opportunities for community input and participation in decision-making processes.

Both Staff leadership and Elected officials have the responsibility of overseeing capital improvement projects to ensure that they are implemented effectively and efficiently. This process will improve the monitoring of progress, evaluation of outcomes, and will allow the City to transparently make adjustments as necessary to ensure the successful completion of projects. Staff and Elected officials both have the capacity to consider the long-term



implications and sustainability of projects, but in different ways. Joining efforts at the beginning of projects will ensure that both contribute to the overall development and well-being of the community for years to come.

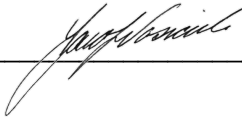
Overall, the involvement of elected officials in capital improvement projects is important because it brings accountability, transparency, expertise, representation, and long-term planning to the decision-making process. It helps to ensure that projects are aligned with the needs and aspirations of the community and are carried out in a fair and responsible manner.

**FISCAL IMPACT:** None

**CONCURRENCE:** All Staff Leadership

**SIGNATURE:**

By: \_\_\_\_\_

A handwritten signature in cursive script, written in black ink, positioned above a horizontal line. The signature is partially obscured by the line and extends slightly above it.

## City of Columbus, Nebraska

### Discretionary Capital Improvement Policy

This policy establishes guidelines and procedures for processing Discretionary Capital Improvement Projects (DCIP), ensuring the involvement of an elected official sponsor and a member of the staff leadership team in the development and execution of each project. The elected official will serve as the public spokesperson and advocate for the project during open meetings, while the staff members will provide professional expertise, research, and leadership during the project development, planning and implementation process.

#### 1. Establishing Projects:

- 1.1. DCIP will be drawn from the annual capital improvement project list that is developed during the annual budget planning process.
- 1.2. During the annual budget development process each discretionary capital project will have one or more elected official sponsor(s). Any DCIP which fails to gain the support of an elected official will not be included in the City's budget. Each elected official will select and rank which DCIP they would like to sponsor. In order to follow the Open Meetings Act, a quorum of elected officials may not be the sponsor of any one DCIP.
- 1.3. Elected officials may request a capital improvement project be included in the annual capital improvement project list in January of each calendar year.
- 1.4. Establishing project priority for the DCIP will be done by the Mayor and City Council after the final DCIP list is finalized. This will be done by each elected officials ranking all of the discretionary capital improvement projects. (If there are 40 DCIP, they will rank those projects from 1 to 40. 1 being the most desired, 40 being the least desired. Projects with the least cumulative points will have the highest priority. Projects with the most cumulative points will have the lowest priority.)

#### 2. Project Sponsorship:

- 2.1. All discretionary capital improvement projects must have an elected official sponsor who will advocate for and support the project throughout its lifecycle.
- 2.2. The elected official sponsor will collaborate with the staff leadership team to provide the necessary direction, resources, and oversight for the project.
- 2.3. The elected official sponsor will act as the public spokesperson for the project during open meetings, providing updates, answering questions, and representing the project to the public.
- 2.4. The City of Columbus will manage resources on the city's website to educate the public on what elected officials are sponsoring what projects.

- 2.5. The elected official sponsor will work together with staff leadership and the city Communication Manager to educate the public on the project, as the team feels necessary.
3. Staff Leadership Team:
  - 3.1. A member of the staff leadership team will be assigned to each discretionary capital improvement project to provide professional expertise and leadership in its development and execution.
  - 3.2. The staff leadership team member will be responsible for conducting research, following applicable rules and regulations, and leading the planning process for the project.
  - 3.3. The staff leadership team member will collaborate closely with the elected official sponsor to ensure alignment with project goals, objectives, and public interests.
4. Project Development Process:
  - 4.1. The elected official sponsor and the staff leadership team member will work together to define the project scope, objectives, and feasibility.
  - 4.2. The staff leadership team member will conduct research, analyze data, and develop a comprehensive plan for the project, including cost estimates, timelines, and required resources.
  - 4.3. The staff leadership team member will engage with relevant stakeholders, such as community members, government agencies, and other departments, to gather input and address concerns during the planning process. The elected official will join in this engagement when desired.
  - 4.4. The staff leadership team member will prepare project documentation, including reports, proposals, and presentations, for review and approval by appropriate authorities.
5. Execution and Oversight:
  - 5.1. Once the project receives necessary approvals, the staff leadership team member will oversee the implementation of the project plan, ensuring adherence to timelines, budgetary constraints, and quality standards.
  - 5.2. The elected official sponsor will continue to advocate for the project and communicate updates to the public through open meetings, community forums, and other appropriate channels.
  - 5.3. The staff leadership team member will regularly report project progress to the elected official sponsor and provide necessary updates to stakeholders and the public as required in coordination with the city Communication Manager.
  - 5.4. The elected official sponsor and the staff leadership team member will address any issues, challenges, or changes that arise during project execution, ensuring effective resolution and adaptation.
6. Evaluation and Closure:

- 6.1. Upon completion of the discretionary capital improvement project, the staff leadership team member and elected sponsor will complete an evaluation to assess the project's success, outcomes and identify lessons learned, recommendations for future projects.
- 6.2. The project will be officially closed after the elected official sponsor and the staff leadership team member have obtained the necessary approvals, completed required documentation, and ensured proper project handover, as applicable.
7. Policy Review:
  - 7.1. This policy will be reviewed periodically to ensure its effectiveness and relevance, with any necessary updates or modifications implemented as deemed appropriate by the City Council.

This policy aims to establish a structured and collaborative approach for processing discretionary capital improvement projects, facilitating accountability, transparency, and efficient utilization of resources.

**4. Review city council rules.**



The City of **Columbus**

**CITY CLERK'S OFFICE**

Phone (402) 562-4224 • Fax (402) 563-1380

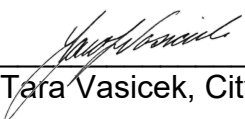
June 5, 2023

To: Mayor and City Council  
From: Janelle Kline, City Clerk  
Subject: City Council Rules

The Columbus City Code provides that the Rules of the City Council shall be adopted at the first meeting in July following a general and regular city election. Attached are the City Council Rules with proposed changes shown in red. The proposed changes have been reviewed by the city attorney.

A recommendation can be made to approve the City Council Rules at the June 5<sup>th</sup> Committee of the Whole meeting or this issue can be kept in committee and brought back to a Committee of the Whole meeting on June 19<sup>th</sup> for further discussion and a recommendation. A resolution adopting new City Council Rules will be presented at the July 5<sup>th</sup> City Council meeting.

By:   
\_\_\_\_\_  
Janelle Kline, City Clerk

Approved:   
\_\_\_\_\_  
Tara Vasicek, City Administrator



**From:** [Bulkley, Jim](#)  
**To:** [Kline, Janelle](#); [Beth Augustine-Schulte](#); [Charlie Bahr](#); [Hope Freshour](#); [Kat Lopez](#); [Prent Roth](#); [Richard Jablonski](#); [Ron Schilling](#); [Troy Hiemer](#)  
**Cc:** [Vasicek, Tara](#); [Neal Valorz](#)  
**Subject:** Re: June 5th Committee of the Whole - City Council Rules  
**Date:** Monday, May 22, 2023 6:12:36 PM

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All

I will be bringing a request to change our Council times to 5:30 PM. I believe that the 7:00 time was originally picked because we felt that it was best suited for citizens that wanted to attend our meeting. I think from the attendance that we normally get at our meetings it is pretty obvious that the start time has nothing to do with attendance. If it is a "hot" topic people will come.

I believe 5:30 would be much more friendly to our staff in the fact that they could easily roll from their work day assignments right into the council meeting. Not going home and back or waiting around town or the office for the meeting to start. I know that if you look at all of our sister city's and others our 7:00 start time is very unusual. Even look at our County Supervisor meetings-they start at 9:00 AM.

I feel that any current or future Council member that is working would be able to coordinate their schedules so that a 5:30 start would fit them also. A possible negative is the holding of a COW. Once in a while we have a COW that we schedule for an hour. And maybe 4:30 is putting a crimp on our working Council members. If that is a concern then I'd compromise and say that 6:00 could be our Council time and then any hour long COW wouldn't start till 5:00. And those are very seldom.

I believe we all would enjoy conducting our business and getting things done earlier thus getting us home sooner.

Jim

**From:** "Kline, Janelle" <[Janelle.Kline@columbusne.us](mailto:Janelle.Kline@columbusne.us)>  
**Subject:** June 5th Committee of the Whole - City Council Rules  
**Date:** 19 May 2023 11:31  
**To:** "Beth Augustine-Schulte" <[baugustine@neb.rr.com](mailto:baugustine@neb.rr.com)>, "Bulkley, Jim" <[Jim.Bulkley@columbusne.us](mailto:Jim.Bulkley@columbusne.us)>, "Charlie Bahr" <[cbahr1059@gmail.com](mailto:cbahr1059@gmail.com)>, "Hope Freshour" <[freshourhope@gmail.com](mailto:freshourhope@gmail.com)>, "Kat Lopez" <[kat96lopez@gmail.com](mailto:kat96lopez@gmail.com)>, "Prent Roth" <[jproth@yahoo.com](mailto:jproth@yahoo.com)>, "Richard Jablonski" <[ward3rj2020@gmail.com](mailto:ward3rj2020@gmail.com)>, "Ron Schilling" <[firstbase57@allophone.com](mailto:firstbase57@allophone.com)>, "Troy Hiemer" <[troyhiemer@gmail.com](mailto:troyhiemer@gmail.com)>  
**Cc:** "Vasicek, Tara" <[Tara.Vasicek@columbusne.us](mailto:Tara.Vasicek@columbusne.us)>, "Neal Valorz" <[nvalorz@1492law.com](mailto:nvalorz@1492law.com)>

The Columbus City Code provides that the Rules of the City Council shall be adopted at the first meeting in July following a general and regular city election. Attached are the City Council

Rules that were adopted in 2021.

A Committee of the Whole meeting has been scheduled for June 5<sup>th</sup> to review the rules and a recommendation can be made at that time or the issue can be brought back to a June 19<sup>th</sup> Committee of the Whole meeting for further discussion and a recommendation. A resolution adopting the new rules will be presented at the first meeting in July.

I'm sending to you in advance to allow time for review. You can bring any proposed changes to the June 5<sup>th</sup> meeting for discussion.

Thank you.

*Janelle Kline*, CMC  
City Clerk  
City of Columbus  
P.O. Box 1677  
Columbus, NE 68602-1677  
402-562-4227

Check us out at [www.columbusne.us](http://www.columbusne.us)

# **RULES OF THE CITY COUNCIL OF THE CITY OF COLUMBUS, NEBRASKA**

In accordance with Section 30.20 of the Columbus City Code, the following rules of procedures and order of business are adopted to ensure the orderly, efficient, and lawful conduct of the affairs of the City Council of Columbus, Nebraska.

## **I. ORGANIZATION OF THE COUNCIL**

1. At the first regular meeting of the council in December following a regular city election, the newly elected members of the council who have qualified, as provided by law, together with the members of the council holding over, shall meet for the purpose of organization. They shall elect one of their members as “president of the council,” who shall hold such office until the first regular meeting of the council in December of the ensuing year, at which time such office shall automatically become vacant. The incumbent shall be eligible for re-election. In the absence of both the mayor and president of the council, the chair of the Public Finance, Judiciary, and Personnel Committee shall serve as acting president of the council, with the identical duties and powers of the president.
2. The council shall, by resolution, establish such standing and special committees as it deems necessary. Permanent standing council committees shall be (1) the Committee of the Whole; (2) the Public Finance, Judiciary and Personnel Committee; and (3) the Public Property, Safety and Works Committee. The Committee of the Whole, consisting of all members of the city council, shall be presided over by the council president, or in the president’s absence, by the chair of the Public Finance, Judiciary, and Personnel Committee. All other committees shall select their own chair and vice chair, each of whom shall serve for a term of one year, neither of which shall be the president of the council. The mayor shall at the first regular meeting in December submit to the council for their approval a list of council members to serve on each committee. Each committee shall have as its members one council member from each of the four Wards located in the City of Columbus. Changes on such committees may be made at any time by the mayor with the consent of the majority of all members of the council.

## **II. CONDUCT OF BUSINESS**

1. Regular meetings of the council shall be held in the Council Chambers on the first and third Mondays of each month at ~~7:00~~7:30 p.m. Special meetings of the council shall be held in the Council Chambers upon call by the mayor or four members of the council. The day, hour, and purpose of such meetings shall be set forth in said call. No other business shall be transacted at such

special meetings unless all members are present and consent thereto. Notice of every special meeting shall be given to the mayor and each council member by notifying the mayor and council members personally, by telephone, by leaving a verbal message at the mayor's and council member's usual place of business or residence, or by email.

The council may, by motion, hold council meetings at such other locations and times as designated by a majority of the council.

Regular meetings of the city council may be rescheduled or cancelled by motion of the council.

2. In order for the council to conduct business, a majority of all members elected to the council must be present, but a lesser number may adjourn, from time to time, and compel the attendance of absent members. The quorum for the council committee meetings shall be a majority of the committee's members. The mayor's presence shall not be considered in a determination of a quorum.
3. All ordinances shall contain a title which shall briefly describe and explain the content of the respective ordinance and all ordinances shall contain no subject which shall not be clearly expressed in the title. All ordinances of a general or permanent nature shall be fully and distinctly read aloud, by title, on three (3) different days, unless three-fourths (3/4) of all members of the council vote to suspend this requirement, but only as permitted by state statute. In case such requirement shall be suspended, such ordinance shall be read by title or number and then moved for final passage. Three-fourths (3/4) of all members of the council may require any ordinance to be fully and distinctly read aloud in full before enactment under any of the procedures as set forth above.
4. All resolutions shall contain a title which shall briefly describe and explain the content of the respective resolution and all resolutions shall contain no subject which shall not be clearly expressed in the title. The resolution shall be read by title or number and then moved for final passage.
5. All ordinances and resolutions or orders for the appropriation or payment of money shall require for their passage or adoption the concurrence of a majority of all members elected to the council. The mayor may vote on any such matter when his or her vote will provide the additional vote required to create a number of votes equal to a majority of the number of the members elected to the council and the mayor shall, for the purpose of such vote, be deemed to be a member of the council.
6. The mayor shall have the power to approve or veto any ordinance passed by the city council and to approve or veto any order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim. If the mayor

approves the ordinance, order, bylaw, resolution, contract, or claim, he or she shall sign it, and it shall become effective. If the mayor vetoes the ordinance, order, bylaw, resolution, contract, or any item or items of appropriations or claims, he or she shall return it to the city council stating that the measure is vetoed. The mayor may issue the veto at the meeting at which the measure passed or within seven calendar days after the meeting. If the mayor issues the veto after the meeting, the mayor shall notify the city clerk of the veto in writing. The clerk shall notify the city council of the mayor's veto by email. Any ordinance, order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim vetoed by the mayor, may be passed over his or her veto by a vote of two-thirds of all the members elected to the council, notwithstanding his or her veto. If the mayor neglects or refuses to sign any ordinance, order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim, but fails to veto the measure within the time required by this section, the measure shall become effective without his or her signature. The mayor may veto any item or items of any appropriation bill or any claims bill, and approve the remainder thereof, and the item or items so vetoed may be passed by the council over the veto as in other cases.

7. The city administrator shall prepare the agenda for all meetings of the city council and its committees and a preliminary agenda shall be sent to the mayor. The city council shall, by motion, set a deadline for the submission of all items for the agenda. The mayor or a council member shall have the right to place a matter on the agenda of any regular or special meeting of the council or on the agenda of any committee of the city council by delivering a written request or by emailing a request to the city administrator with sufficient detail so as to fully comply with the Nebraska Open Meetings Act.
8. For purposes of various actions to be taken by the council, the following guidelines as to the number of votes required for various actions are as follows:
  - a. A majority of the council members present, or four votes, whichever number is greater, are required to transact business, except for specified exceptions.
  - b. Five votes of the council members are required to spend money, enter into a contract or pass a resolution.
  - c. Six votes of the council members are required to override a mayoral veto.
  - d. Six votes of the council members are required to suspend the rules for passage of an ordinance.

~~e. A vote of two-thirds (2/3) of the council members present is required to suspend the council rules that require a council member to leave the council chambers when abstaining from discussion and vote.~~

~~f.e.~~ Six votes of the council members are required to adopt an ordinance creating a water or sewer district.

~~g.f.~~ Five votes of the council members are required to enter into closed session.

~~h.g.~~ Five votes of the council members are required to adopt an ordinance, except following the veto of a mayor.

~~i.h.~~ Five votes of the council members are required to bring an item from the table.

~~j.i.~~ The mayor may vote on any such matter when his or her vote will provide the additional vote required to create a number of votes equal to a majority of the number of members elected to the council, and the mayor shall, for the purpose of such vote, be deemed to be a member of the council.

9. When at all possible, council members shall avoid motions containing negative statements.
10. A council member shall have the absolute right to change their vote up to the time the result of the vote is announced and the authority to change their vote with permission of five (5) members of the city council up to the time the meeting is adjourned.

### III. ORDER OF BUSINESS

Unless otherwise approved by the city council at the operative meeting, the Order of Business will be conducted in the following order:

- Oath of Office. (When necessary/required.)
- Statement of compliance with Open Meetings Act and Roll Call.
- Prayer.
- National Anthem and Pledge of Allegiance.
- Appointment of City Officers. (When necessary/required.)
- Election of Council President. (When necessary/required.)
- Appointment of Council Members to Public Finance, Judiciary, and Personnel Committee and Public Property, Safety, and Works Committee. (When necessary/required.)
- Consent Agenda.
- Minutes.

- Special Presentations.
- Public Hearings.
- Petitions and Communications.
- Reports of City Offices.
- Reports of Council Committees.
- Reports of Special Committees.
- Reports on Legislation.
- New Business.
- Resolutions.
- Ordinances on First Reading.
- Ordinances on Second Reading.
- Ordinances on Third Reading.
- Consideration of Payroll and Bills on File.
- Unfinished Business.
- Adjournment.

This order of business may be changed from time to time by a motion duly made by a council member and a vote of the majority of members present at the council meeting. Further, items may be taken from this order of business and included for consideration in a consent agenda of “routine” items submitted for approval.

At the conclusion of all public hearings, a motion shall be made, seconded, and voted on to conclude the public hearing, continue it to a later date and time, or remove from the agenda. If the hearing is concluded, the council may immediately proceed to act on the issue of the hearing by approving, denying, or amending either a motion, a resolution, or an ordinance, as required.

#### **IV. DECORUM AND DEBATE**

1. The mayor shall preside at all meetings of the council. The mayor shall call the body to order at the hour provided by ordinance, preserve order and decorum, and decide all questions of order, subject to an appeal to the council. The mayor shall have supervision of the Council Chambers and in case of any disturbance or disorderly conduct, shall have the power to order the same cleared.
2. When any member is about to speak in debate or deliver any matter to the council, such member shall respectfully address the mayor, shall confine himself or herself to the question under debate, and avoid references to personal traits of any individual.
3. If a member be called to order for words spoken in debate, the member so calling shall repeat the words excepted to and they shall be taken in writing; and if, in the judgment of the council, the words excepted to are objectionable and the member uttering them refuses to retract, such member shall be subject to the censure of the council.

4. Every member of the council present at a meeting when the question is put shall give his or her vote as is his/her duty, unless ~~the council, for special reasons, shall excuse him or her from voting. All motions to excuse a member from voting shall be made prior to the matter for which the council member is seeking to be excused is otherwise discussed, debated, or addressed. Any member requesting to be excused from voting shall make a brief verbal statement of the reasons for making such a request and ask to leave the Council Chambers, as required by law~~ he/she abstains when required by law or as may be permitted under Robert's Rules of Order.
5. Every motion shall be reduced to writing upon the request of the mayor or any member of the council.
6. Upon calls of the council, or in taking the ayes and nays upon any question, the names of the members shall be called in regular order and so as to rotate the calling of the first name among the various members of the council, except when electronic balloting is used. All members of the council must vote on all issues unless excused from voting pursuant to the procedure set forth in Paragraph 4 above.
7. No member shall absent himself or herself from the service of the council, unless he or she is on leave, is sick, or unable to attend. If any council member shall neglect or fail to attend five consecutive regular meetings of the council, unless the absences are excused by a majority vote of the remaining Council Members, he or she shall be deemed guilty of misconduct and his or her office shall be declared vacant by the council. The vacancy shall be filled by appointment of the mayor, by and with the consent of the council, as provided by state statute.
8. The chief of Police, or any other police officer as designated by the chief of Police, shall be ex-officio Sergeant-at-Arms of the Council Chambers and it shall be that officer's duty to attend the council meeting, to execute the commands of the mayor and council as requested, and to serve such process or processes as may be issued by their authority.
9. Those individuals desiring to put an item or an issue on the agenda of a regular meeting of the city council shall submit such request in writing, completed on an approved "Topic for Consideration" form, to the city clerk's office stating the nature of the item they wish to discuss with the city council, and the request shall be submitted prior to 5 p.m. on the Monday immediately preceding the council meeting. This deadline may be amended by the council by motion and majority vote of the city council. Determination of whether the item or issue will be placed on the agenda is left to the discretion of the city administrator and the requesting citizen will be informed of the decision by 5 p.m. on the Friday immediately preceding the council meeting. The council shall not permit

individuals to address the city council relative to topics and issues which are not included on the council agenda.

10. Each person desiring to address the city council shall step up to the podium at the appropriate time; state his or her name and address for the record; state whom he or she is representing if such person represents an organization or other persons; and, limit his or her remarks to five (5) minutes, unless additional time is granted by the presiding officer or by a majority vote of the council. The presiding officer shall have the right to limit or exclude the presentation of information or testimony which is irrelevant or redundant. The presiding officer may reasonably limit the number of times during any meeting a person, not a member of the council, may address the council at the meeting.

## **V. MISCELLANEOUS**

1. No standing rule of order of the council shall be rescinded, suspended, or amended, except by a vote of at least two-thirds (2/3) of the members present. Nor shall the order of business as established by the Rules of the city council be postponed or amended, except by a vote of at least two-thirds (2/3) of the members present.
2. The Rules of Parliamentary Practice, comprised in "Robert's Rules of Order Newly Revised, 12th Edition", shall govern the council in all cases where they are applicable and not inconsistent with these rules.
3. The mayor shall submit all appointments which he desires to have considered by the council not less than two weeks prior to the council meeting in which the appointment will be formally addressed. Provided, however, that if the appointment is a reappointment to the same or similar position, or is an appointment as a paid firefighter or paid police officer, this requirement shall be automatically waived without further action by the mayor or council. Additionally, the council may, upon motion being made, seconded, and approved, waive this requirement for other appointments at the council's discretion.
4. All committees previously appointed and approved by the mayor and council may appoint subcommittees consisting of the previously appointed members, or consisting of individuals not currently serving on the appointed board, only upon the mayor and council ratifying the creation of the subcommittee, its duties, and the individuals chosen by the committee to serve.
5. No council member shall allow himself or herself to be subject to excessive lobbying.

6. All lobbying, other than minimal contact, shall be reported to the city administrator and the lobbying reported to the other council members before the item, the subject of the lobbying, is discussed.

## **5. Adjournment.**