

THIS AGENDA IS SUBJECT TO CHANGE WITH MINIMUM 24 HOURS NOTICE



UNIFIED FIRE AUTHORITY BOARD AND UNIFIED FIRE SERVICE AREA SPECIAL JOINT MEETING AGENDA

April 16, 2024 at 8:30 a.m.

(or immediately following the UFA Board meeting, if after 8:30 a.m.)

NOTICE IS HEREBY GIVEN THAT THE UNIFIED FIRE AUTHORITY BOARD OF DIRECTORS AND THE UNIFIED FIRE SERVICE AREA TRUSTEES SHALL ASSEMBLE BOTH ELECTRONICALLY AND IN-PERSON FOR A MEETING AT UFA HEADQUARTERS LOCATED AT 3380 SOUTH 900 WEST, SALT LAKE CITY, UT 84119

THE PUBLIC MAY ATTEND IN-PERSON OR ELECTRONICALLY VIA ZOOM WEBINAR AT:
<https://zoom.us/j/98255960431?pwd=VW9iWk1KQ0JYTi9lSDIxMS96KzZXZz09>
Password: 123911

-
1. Call to Order – UFSA Chair Hull
 2. Public Comment

Please limit comments to three minutes each and be germane to the agenda items or UFA/UFSA business. The UFA/UFSA Boards typically will not engage directly but may direct staff to address comments following the meeting.

There are three options for comments during this meeting:

 - a. In-Person.
 - b. Live during the Webinar by logging in as described above. If you wish to make a comment, select the “Raise Hand” button at the bottom of the screen. You will then be added to the queue and invited to speak.
 - c. EMAIL: Public comments will be accepted prior to the meeting via email at publiccomment@unifiedfire.org until 7:00 a.m. April 15, 2024. Emailed comments submitted prior to 7:00 a.m. April 15, 2024, will be read or summarized into the record, comments received after the deadline will be forwarded to the UFA and UFSA Boards, but not read into the meeting record or addressed during the meeting.
 3. Open and Public Meetings Training – CLO Roberts/DA Anderson
 4. Possible Closed Session

The Boards may consider a motion to enter into Closed Session. A closed meeting described under Utah Code Section 52-4-205 may be held for specific purposes including, but not limited to:

 - a. discussion of the character, professional competence, or physical or mental health of an individual;
 - b. strategy sessions to discuss pending or reasonably imminent litigation;
 - c. strategy sessions to discuss the purchase, exchange, or lease of real property;

- d. discussion regarding deployment of security personnel, devices, or systems; and
- e. investigative proceedings regarding allegations of criminal misconduct.

A closed meeting may also be held for attorney-client matters that are privileged pursuant to Utah Code § 78B-1-137, and for other lawful purposes that satisfy the pertinent requirements of the Utah Open and Public Meetings Act.

Re-Opening the Meeting

- 5. Adjournment – UFSA Chair Hull

THE PUBLIC IS INVITED TO PARTICIPATE IN ALL UFA/UFSA MEETINGS.

In accordance with the Americans with Disabilities Act, UFA/UFSA will make reasonable accommodation for participation in the meetings. Please call the clerk at least three working days prior to the meeting at 801-743-7213. Motions relating to any of the foregoing, including final action, may be taken at the meeting. This meeting will be held electronically to allow members of the UFA/UFSA Boards to participate. This agenda is subject to change with a minimum 24-hour notice.

CERTIFICATE OF POSTING

The undersigned, does hereby certify that the above agenda notice was posted on this 15th day of April 2024 on the UFA & UFSA bulletin boards, the UFA & UFSA websites www.unifiedfire.org & www.unifiedfireservicearea.org, posted on the Utah State Public Notice website <http://www.utah.gov/pmn/index.html> and was emailed to at least one newspaper of general circulation within the jurisdiction of the public body.

Cyndee Young, UFA/UFSA Board Clerk

Open Meeting Law Training for UFA/UFSA Boards

Statutory Obligation to Train (Utah Code § 52-4-104)

The presiding officer of the Board must make sure that all members of the Board receive annual training on the requirements of the Open and Public Meetings Act (the “Act”).

A. Basic Principle (§ 52-4-201(1))

Board meetings must be open to the public, unless an exception is available under the Act.

B. Definitions (§ 52-4-103)

1. “Meeting”

A meeting is the convening of at least a quorum of the Board for the purpose of (a) discussing, (b) receiving comments from the public about, or (c) acting upon a matter over which the Board has jurisdiction or advisory power.

Chance gatherings or social gatherings are not subject to the open meeting law. However, they may not be used to circumvent the Act. (§ 52-4-208).

The Board may hold electronic meetings subject to the Act and as described below.

2. “Convening”

The calling together of the Board by a person authorized to do so for the express purpose of discussing or acting upon a subject over which the Board has jurisdiction or advisory power.

C. Notice of Meetings (§ 52-4-202)

The Board must give not less than 24 hours public notice of each meeting. The notice must include the:

1. agenda;
2. date;
3. time; and
4. place.

The notice must be:

1. posted (a) at the principal office of the Board and (b) on the Utah Public Notice Website; and
2. provided either (a) to a newspaper of general circulation or (b) to a local media correspondent.

In addition, the Board must give annual notice of its annual meeting schedule, specifying the date, time, and place of its scheduled meetings during the year.

The Board is encouraged to develop and use additional electronic means of providing notice of its meetings.

The notice requirement does not apply to emergency meetings, as long as the Board gives the best notice practicable of the time and place of the emergency meeting and the topics to be considered. However, an emergency meeting may not be held unless the Board attempts to notify all Board members and a majority of the Board members approve holding the meeting.

D. Agendas (§ 52-4-202)

1. Degree of Specificity

A meeting notice that is required to include an agenda must provide reasonable specificity to notify the public about the topics to be considered at the meeting. Each topic must be listed under an agenda item. (§ 52-4-202(6)(a))

2. Consideration of Matters Not On the Agenda

Generally, the Board may not take final action on a topic in an open meeting unless the topic is (a) listed under an agenda item and (b) included in the advance public notice. (Note: This limitation does not apply to emergency meetings. (§ 52-4-202(6)(c))

Except with respect to emergency meetings, and at the discretion of the presiding member of the Board, a topic raised by the public may be discussed during an open meeting, even if the topic was not included in the agenda or the meeting notice. However, the Board may not take final action on the topic at that time. (§ 54-2-202(6)(b))

E. Open Meetings (§ 52-4-201)

1. In General

A meeting is open to the public unless closed pursuant to the Act. (Closed meetings are discussed in the next section.)

F. Closed Meetings (§§ 52-4-204, 205)

1. Purposes of Closed Meetings (§ 52-4-205)

- a. To discuss the character, professional competence, or physical or mental health of an individual;
- b. Strategy sessions to discuss collective bargaining;

- c. Strategy sessions to discuss pending or reasonably imminent litigation;
- d. Strategy sessions to discuss the purchase, exchange, or lease of real property (including any form of water rights or water shares), if public discussion would:
 - (i) disclose the appraisal or estimated value of the property under consideration; or
 - (ii) prevent the Board from completing the transaction on the best possible terms;
- e. Strategy sessions to discuss the sale of real property (including any form of water rights or water shares), if:
 - (i) public discussion of the transaction would:
 - A. disclose the appraisal or estimated value of the property under consideration; or
 - B. prevent the Board from completing the transaction on the best possible terms;
 - (ii) the Board previously gave public notice that the property would be offered for sale; and
 - (iii) the terms of the sale are publicly disclosed before the Board approves the sale;
- f. Discussion regarding deployment of security personnel, devices, or systems; and
- g. Investigative proceedings regarding allegations of criminal misconduct.

Closed meetings are also authorized for the Board to receive the advice of its legal counsel. *See* Utah Code § 78B-1-137(2) (attorney-client privilege).

2. Procedure for Closing Meetings (§ 52-4-204)

- a. An open meeting must be in session with a quorum present.
- b. Two-thirds of the Board members present must vote to approve closing the meeting.
- c. The meeting may be closed only to discuss a matter listed in Section 52-4-205.

- d. The following information must be publicly announced and entered on the minutes:
 - (i) the reason[s] for closing the meeting
 - (ii) the location of the meeting
 - (iii) the vote, by name, of each Board member, either for or against the motion to close the meeting.

G. Record of Meetings (§§ 52-4-203, 206)

1. Open Meetings (§ 52-4-203)

Both written minutes and a recording (*i.e.*, an audio or an audio and video record) must be kept of all open meetings.

However, *either* written minutes or a recording is adequate if the meeting is a site visit or a traveling tour, if no vote or action is taken. Therefore, unless the Board is keeping both written minutes and a recording during a site visit or traveling tour, it should not take a vote or official action during that site visit or traveling tour.

The recording and minutes must include:

- a. the date, time, and place of the meeting;
- b. the names of the Board members present and absent;
- c. the substance of all matters proposed, discussed, or decided by the Board which may include a summary of comments made by members of the Board;
- d. a record, by individual Board member, of each vote taken;
- e. the name of each person who is not a member of the Board and who, upon recognition by the presiding member of the Board, provided testimony or comments to the Board;
- f. the substance, in brief, of the testimony or comments provided by the public under (e); and (g) any other information that any Board member requests be entered in the minutes or recording.

The recording must be a complete and unedited record of all open portions of the entire meeting and be properly labeled or identified with the date, time, and place of the meeting.

Approved written minutes (not the recording) are the official record of action taken at the meeting. As of 2017, the Board may satisfy the requirement that minutes include the substance of matters proposed, discussed, or decided or the substance of testimony or comments by maintaining a publicly available online version of the minutes that provides a link to the meeting recording at the place in the recording where the matter is proposed, discussed, or decided or the testimony or comments provided. Such an annotated recording must be posted within three business days of approval.

2. Approval of Minutes (§ 52-4-203(4))

Within *three business days* after holding an open meeting, the Board must make an audio recording of the open meeting available to the public for listening.

Within a *reasonable time* after holding the open meeting, the Board must make *pending* minutes (*i.e.*, draft minutes that haven't yet been approved by the Board) available to the public.

Within *three business days* after approving written minutes, the Board must make the *approved* minutes available to the public.

The Board must establish and implement procedures for the approval of the written minutes of each meeting. The written minutes or the recording of an open meeting that are required to be retained permanently must be maintained in or converted to a format that meets long-term records storage requirements.*

*According to the municipal retention schedule, the written minutes must be retained permanently, and the recording must be retained for at least three years.

3. Closed Meetings (§ 52-4-206)

Except when a meeting is closed to discuss (a) the character, professional competence, or physical or mental health of an individual or (b) the deployment of security personnel, devices, or systems, the Board *must* make a recording of the closed meeting and *may* keep detailed written minutes that disclose the content of the closed meeting.

The recording and any minutes must include:

- a. the date, time, and place of the meeting;
- b. the names of the Board members present and absent; and
- c. the names of all others present unless disclosure would infringe on the confidentiality necessary to fulfill the original purpose of closing the meeting.

The recording and the written minutes are protected records under GRAMA.

No recording or written minutes are required for a closed meeting to discuss (a) the character, professional competence, or physical or mental health of an individual or (b) the deployment of security personnel, devices, or systems.

The person presiding at such a meeting must sign a sworn statement affirming that the sole purpose for closing the meeting was to discuss those matters.

According to the municipal retention schedule, the written minutes and the recording must be retained permanently.

Requires posting of approved minutes for certain bodies on state public notice website.

H. Electronic Meetings (§ 52-4-207)

1. Resolution, Rule, or Ordinance

The Board may not hold an electronic meeting unless it has adopted a resolution, rule, or ordinance governing the use of electronic meetings. *UFA Policy Volume 1, Chapter 1, Section 4 satisfies this requirement.*

2. Notice

The Board must:

- a. give public notice of the meeting in the usual way;
- b. post written notice at the anchor location; and
- c. in addition to giving such public notice, provide:
 - (i) notice of the electronic meeting to the Board members at least 24 hours before the meeting so that they may participate in and be counted as present for all purposes; and
 - (ii) a description of how the Board members will be connected to the electronic meeting.

3. Anchor Locations

The Board must establish one or more anchor locations for the meeting, at least one of which is in the building in which the Board normally meets. The Board must provide space and facilities at the anchor locations so that interested persons and the public may attend and monitor the open portions of the meeting.

If comments from the public will be accepted during the meeting, the Board must provide space and facilities at the anchor location so that interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

Allows electronic meeting with an anchor location to provide means for public not physically present at anchor location to appear remotely.

Provides a mechanism for holding electronic meetings without an anchor location if the chair determines that a public meeting would present a substantial risk to health or safety of those who would be present at an anchor location or if the location where the public body would normally meet has been ordered closed for public safety or health reasons

4. Electronic Messages

The Act does not restrict a Board member from transmitting an electronic message (such as email, instant messaging, or a text message) to other Board members at a time when the Board is not convened in an open meeting. (§ 54-2-210)

5. Voting

Except for a unanimous vote, a public body conducting an electronic meeting must take all votes by roll call.

I. Disruption of Meetings (§ 52-4-301)

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

J. Consequences of Violating Open Meeting Law (§§ 52-4-302 to 52-4-305)

Any final action taken in violation of certain provisions of the Act is voidable by a court. The suit must be commenced within 90 days after the date of the action.

A court may not void final action for failure to post notice on the Utah Public Notice Website if the failure was the result of unforeseen Internet hosting or communication technology failure and the Board otherwise complied with the public notice requirements.

The Attorney General and county attorneys shall enforce the Act.

A person denied a right under the Act may sue to compel compliance with or to enjoin violation of the Act, or to determine the Act's applicability to discussions or decisions of the Board.

A Board member who knowingly and intentionally violates or advises a violation of the closed meeting provisions of the Act is guilty of a class B misdemeanor.

K. 2024 Changes

- Streamlined definitions for electronic meetings and anchor location. No anchor location is needed if entire body will attend remotely unless written request for physical anchor location is received by member of public at least 12 hours prior to meeting. Removes statutory requirement for roll call on non-unanimous votes and provides discretion for it to be set in policy.
- Created more specific definition of a “Meeting” and removed exceptions:
“a gathering:
(a) of a public body or specified body;
(b) with a quorum present; and
(c) that is convened:
(i) by an individual:
(A) with authority to convene the public body or specified body; and
(B) following the process provided by law for convening the public body or specified body; and
(ii) for the express purpose of acting as a public body or specified body to:
(A) receive public comment about a relevant matter;
(B) deliberate about a relevant matter; or
(C) take action upon a relevant matter.
- Defined “relevant matter” for new definition of meeting: "Relevant matter" means a matter that is within the scope of the authority of a public body or specified body. "Relevant matter" does not include, for a public body with both executive and legislative responsibilities, a managerial or operational matter.
- Quorum of public body may not act together outside a meeting in a concerted and deliberate way to predetermine an action to be taken by the public body at a meeting. (possible cross-reference error in subsection 2).
- Created fee-award for prevailing plaintiff in a cause of action to void an action taken in violation of the Act.