

THIS AGENDA IS SUBJECT TO CHANGE WITH MINIMUM 24 HOURS NOTICE



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

September 17, 2019 at 8:30 a.m.

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

NOTICE IS HERBY GIVEN THAT THE UNIFIED FIRE AUTHORITY & UNIFIED FIRE SERVICE AREA BOARD OF DIRECTORS SHALL ASSEMBLE FOR A MEETING AT UFA EOC LOCATED AT 3380 SOUTH 900 WEST, SALT LAKE CITY, UT 84119

1. Call to Order – UFSA Chair Silvestrini
2. Public Comment
Please limit comments to three minutes each
3. Minutes Approval – UFSA Chair Silvestrini
 - a. November 20, 2018
4. Open Meetings Training – UFA Counsel Roberts/UFSA Counsel Anderson
5. Possible Closed Session
The Board 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
6. Adjournment – UFSA Chair Silvestrini

THE PUBLIC IS INVITED TO PARTICIPATE IN ALL UFA 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 801-743-7220. Motions relating to any of the foregoing, including final action, may be taken at the meeting. This meeting may be held telephonically/electronically to allow a member of the UFA/UFSA Board 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 13th day of September 2019 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/pmnl/index.html> and was emailed to at least one newspaper of general circulation with the jurisdiction of the public body.

Cyndee Young, UFA Board Clerk



UNIFIED FIRE AUTHORITY/UNIFIED FIRE SERVICE AREA BOARD MINUTES

November 20, 2018 8:35 a.m.

Emergency Operations Center, 3380 S. 900 W., SLC, UT. 84119

1. Call to Order

Quorum was obtained, UFSA Chair Silvestrini call the meeting to order

2. Public Comment

None

3. Minutes Approval

Mayor Hale moved to approve the minutes from the October 16, 2018 UFA/UFSA Joint Meeting as submitted

Councilmember Bailey seconded the motion

All voted in favor

4. Possible Closed Session

Councilmember Ferguson moved to temporarily recess the meeting to convene in a closed session to discuss matters as provided by Utah Code Annotated §52-4-205

Mayor Sondak seconded the motion

All voted in favor:

Councilmember Eric Ferguson

Councilmember Gary Bowen

Mayor Robert Dahle

Mayor Kristie Overson

Mayor Mike Peterson

Mayor Jeff Silvestrini

Councilmember Richard Snelgrove

Mayor Robert Hale

Councilmember Kathleen Bailey

SLCo Surveyor Reid Demman

Mayor Harris Sondak

Councilmember Allan Perry

Councilmember Sheldon Stewart

Mayor Tom Westmoreland

Mayor Dahle moved to re-open the meeting to the public

Councilmember Stewart seconded the motion

All voted in favor

5. Discussion of Possible Civil Recovery

Mayor Silvestrini stated that based on consultation in closed session with independent legal counsel with respect to pursuing civil action against former Unified Fire Authority Fire Chief Michael Jensen, the determination is as follows:

“As outlined by the State Auditor’s office, we believe that Former Chief Mike Jensen clearly abused his role as the CEO of this organization and took advantage of the authority provided to the position by the Board of Directors. We believe he used his position as UFA Chief, as well as other political positions he held, including being a member of the Salt Lake County Council, to manipulate the

UFA/UFSA boards for personal gain. We believe that had he not held those other positions he would not have been appointed as Fire Chief.

This, combined with a failure of the past UFA legal counsel, contributed to the Board entering into a resolution and later a separation agreement that benefited Jensen through deception and limited the Board's ability to seek recompense.

After discussion with outside legal counsel, we have determined that the cost to recover the misappropriated funds would be an additional cost to the public's money with small chance of success as reflected by the Attorney General's decision to not prosecute. Due to this, legal action will not be pursued.

The Board of Directors takes responsibility for the poor choice in hiring and continuing to employ Jensen as the Fire Chief and for the loss of public funds that occurred as a result of his hiring.

We have taken steps to ensure such abuse does not happen again and have addressed the audit findings and established board policies that provide a clear line of authority between the Board and its CEO. Today, the UFA has an effective Fire Chief/CEO, a detailed transparent financial budget, a strategic plan, and an engaged, healthy "trust but verify" culture on the Board of Directors.

Signed and agreed upon by the joint UFA/UFSA Board of Directors"

6. Adjournment

Mayor Dahle moved to adjourn the meeting
Councilmember Stewart seconded this motion
All voted in favor

BOARD MEMBERS IN ATTENDANCE:

Councilmember Eric Ferguson
Mayor Robert Hale
Councilmember Gary Bowen
Councilmember Kathleen Bailey
Mayor Robert Dahle
SLCo Surveyor Reid Demman
Mayor Kristie Overson

Mayor Harris Sondak
Mayor Mike Peterson
Councilmember Allan Perry
Mayor Jeff Silvestrini
Councilmember Sheldon Stewart
Councilmember Richard Snelgrove
Mayor Tom Westmoreland

BOARD MEMBERS ABSENT:

Councilmember Kelly Bush

Councilmember Nicole Martin

OTHER ATTENDEES:

Chief Petersen
AC Ziolkowski
DOC Nile Easton
Ryan Atkinson
Doug Obert
BC Zach Robinson
Captain Mike Greensides
Bill Brass
Captain Chad Simons
BC Brian Anderton
DC Steve Prokopis

AC Higgs
CFO Tony Hill
GSM Talsan Schulzke
Ron Haycock Jr.
BC Dusty Dern
Lisa Hartman – SLCo
BC Brad Larson
BC Lee Ascarte
Captain Cliff Burningham
Steven Schmidt
Kiyoshi Young

AC Watson
CLO Brian Robertson
Board Clerk Michelle Roper
Ed Walden
Jay Torgensen
Brett Wood – Herriman City
Lana Burningham
Arriann Woolf
Captain Nate Bogenschutz
BC Wade Watkins

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.

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.

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)

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. 2019 Changes

- A governmental nonprofit corporation may close a meeting to discuss trade secrets if disclosure will result in injury to the owner of the trade secret and discussion of the information is necessary to discharge board's duty.
- A clarification of the definition and operation of a "quorum" for large transit districts.
- Amended the definition of "quorum" so that a quorum is not present when two elected members of a three-member public body meet if they take no action, regardless of whether the action relates to a subject over which the public body has advisory power.