



# BOARD, COMMISSION, AND COMMITTEE HANDBOOK



*Updated March 2019*

## **FORWARD**

This Board, Commission, and Committee Handbook has been developed to assist new and continuing members of Gilbert's network of advisory boards and commissions to better understand the general principles and operating issues of membership, Code of Gilbert requirements, and Council Policy Statements that relate to Boards, Commissions, and Committees. This Handbook contains major points and guidelines of responsibilities.

Suggestions, improvements and questions regarding this handbook should be directed to the Town Clerk, (480) 503-6861.

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## **SECTION 1. GENERAL**

### 1.1 Form of Government

Gilbert is a general law local government created under the authority granted by State Statute. Gilbert was incorporated on July 6, 1920.

There are seven elected officials of Gilbert who exercise the powers and authority granted by State Statute, local ordinances, and resolutions. The Mayor and six Councilmembers are elected at large to serve four-year overlapping terms.

Gilbert operates under the Council-Manager form of local government. Under this model, which is prevalent in Arizona and the western United States, the Mayor and Council select a full-time professional manager to serve as the chief administrative officer and head of the administrative branch of the Town. The Manager is responsible for implementing Council policies, managing the staff, preparing the budget, and other responsibilities as authorized by the Council in the Code of Gilbert.

Gilbert has committed its local government to being inclusive, participative, and transparent. A strong belief that the people should have an opportunity to be involved in their community has resulted in the creation of several Boards and Commissions by the Council to encourage a broad base of advice and recommendation for governance and policy development.

Board and Commission members are selected and appointed by the Council to meet the responsibility of representing the community interests and securing stakeholder participation in the governing and policy making for Gilbert. Special Committees may be approved by Council or selected by their designee on an as-needed basis to act as a task force to address a specific issue, concern, or task in accordance with the Code of Gilbert, Section 1-320.

Boards, Commissions, and Committees vary in their authority and power, and members are encouraged to review the specific responsibilities for the Board, Commission, or Committee to which they have been appointed.

### 1.2 Community Vision

Gilbert, a safe, healthy, clean, attractive, family-oriented community that embraces our Town's heritage yet recognizes the opportunities of the future without sacrificing the resources of today. Gilbert will continue to grow into a Town with:

- |                                                              |                                                             |
|--------------------------------------------------------------|-------------------------------------------------------------|
| <input type="checkbox"/> Vibrant & dynamic business climate  | <input type="checkbox"/> Diverse recreational opportunities |
| <input type="checkbox"/> Excellent educational opportunities | <input type="checkbox"/> Enduring architecture & design     |
| <input type="checkbox"/> Sense of community/neighborhoods    | <input type="checkbox"/> Sustainable practices              |
| <input type="checkbox"/> Environmental stewardship           | <input type="checkbox"/> Efficient transportation           |
| <input type="checkbox"/> Cultural amenities                  |                                                             |

### 1.3 Corporate Mission, Vision, and Values

Gilbert's Mission, Vision, and Values are the cornerstones of our quality efforts and are essential in achieving customer satisfaction.

As Gilbert approaches its 100th birthday in 2020, there is a new mission statement that focuses on keeping the thriving community that Gilbert is today well into the future.

***Mission: Anticipate. Create. Help People.***

Mayor Jenn Daniels challenges the community to **anticipate** change, **create** solutions, and **help people** and our businesses.

***Values: Driven. Kind. Bold. Humble.***

*We are Driven*

We are passionate and driven to excel - always hungry for new challenges and opportunities to achieve more for our community every day. Average doesn't interest us; we are always pushing ourselves for amazing. We understand the importance of our work and strive every day to give Gilbert the future it deserves.

*We are Kind*

We believe in the inherent worth of all people. We are inclusive and spread Gilbert kindness in our words and actions. We promote emotionally intelligent leaders who put people and relationships before processes and tools. We serve each other and our community with respect and civility at all times. We believe the ability to connect and help is just as important as talent and knowledge.

*We are Bold*

We innovate and take risks, so we can keep growing, improving and learning. New ideas and innovative approaches mean sometimes we'll stumble. If we do, we quickly refocus to find the best path forward. Gilbert is a safe place for big ideas. We are committed to constant improvement and doing things differently. We value curiosity and creativity, knowing that community solutions often require new approaches to complex challenges.

*We are Humble*

We have a flat organization where titles are the least interesting thing about us. Service is at the heart of everything we do. We all have meaningful contributions to make. We embrace the servant leadership model and relish opportunities to facilitate the success of others. Authenticity and collaboration are critical to our success.

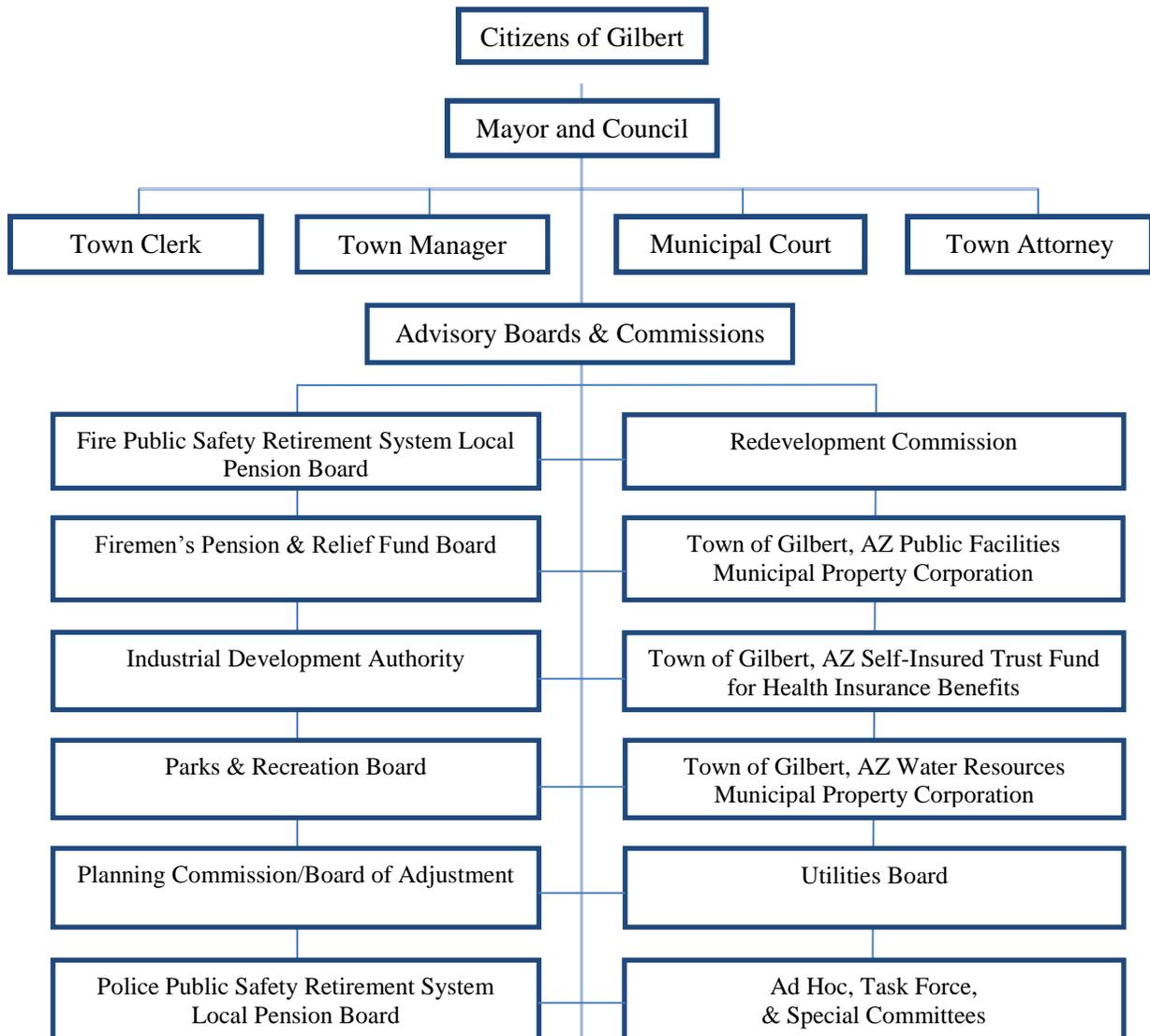
## SECTION 2. BOARDS, COMMISSIONS, AND COMMITTEES

The Council establishes Boards, Commissions, and Committees that serve in different capacities to guide, advise, and/or implement policies in the community. Board, Commission, and Committee members serve at the pleasure of the Council.

Most Boards, Commissions, and Committees serve in an advisory role and make recommendations to the Council. The Planning Commission makes some final decisions.

In cases where a Board or Commission has been delegated the authority to make decisions on behalf of the Council or Town, the Council or another Board may be designated to hear appeals of decisions.

### ADVISORY ORGANIZATIONAL CHART



## 2.1 Board, Commission, and Committee Recruitment, Selection and Appointment

Notices of Board or Commission openings are placed on the Gilbert website and provided to local newspapers. Citizens may also sign up on an email distribution list to receive notifications of Board and Commission openings. Applicants, including incumbents, are required to complete an application and questionnaire and submit them by the application deadline date.

A Council Subcommittee on Board & Commission Application Screening, Interview, and Selection was established. The process followed by the Subcommittee is contained in *Appendix A - Council Subcommittee on Board & Commission Application Screening, Interview, and Selection*.

For Ad Hoc Groups, Task Forces, and Special Committees, a list of interested participants is kept in the Clerk's Office. The list includes the area of interest for serving and is used to draw from when filling special Committee seats. The Council may also elect to advertise Committee openings the same as is done for Board and Commission openings.

## 2.2 Oath of Office

Individuals appointed to a Board or Commission are required by State Law to take an Oath of Office prior to participating on the Board or Commission.

An agenda item will be placed on the first Board or Commission agenda following appointment by the Council. The new or reappointed member will take the Oath of Office publicly at that meeting. The Oath of Office will be administered by the Council Liaison to the Board or Commission. In the event the Liaison is not available, the Chair, Vice Chair, or Staff Liaison may administer the Oath of Office.

*A copy of an Oath of Office is available in Appendix B.*

## SECTION 3. ROLES & RESPONSIBILITIES

### 3.1 Board or Commission Member (including Alternate Members)

A *Board or Commission member* shall:

- Regularly attend meetings;
- Communicate to the Staff Liaison and/or Chair when unable to attend a meeting;
- Prepare for meetings by reviewing meeting agendas, packets, and related materials prior to the meeting;
- Become educated on policies, codes, and procedures that apply to the Board or Commission;
- Treat citizens, applicants, elected officials, other members, and staff with respect;
- Dress and behave in a professional manner at public meetings;
- Provide periodic reports to the Council through the Council Liaison, Chair (or designated member), or at periodic Joint Meetings;
- Comply with the Open Meeting Law and attend training in accordance with the Code of Gilbert, Section 1-202. Declare conflicts of interest that may occur and submit a completed Conflict of Interest form to the Staff Liaison;
- Serve on no more than one board or commission at one time. A member of a Board or Commission may serve as a member of a Committee; and
- Resign from the Board or Commission immediately after elected to a Mayor or Council seat in accordance with the Code of Gilbert, Section 26-3(b).

### 3.2 Ad Hoc Member to a Board or Commission

An *Ad Hoc* member shall:

- Fulfill the responsibilities of a *Board or Commission member* but does not have voting rights on the Board or Commission;
- May or may not be a Gilbert resident; and
- May serve as a subject matter expert or neutral party to the Board or Commission.

### 3.3 Chairperson (or President)

The *Chairperson* shall:

- Fulfill the responsibilities of a *Board or Commission member*;
- Coordinate with the Staff Liaison on meeting agendas, meeting dates, and other logistical issues;
- Serve as the presiding officer and facilitate public meetings;
- Communicate meeting processes to the public and Board or Commission members;
- Encourage discussion among Board or Commission members and give all members an opportunity to speak, in a fair and orderly manner;
- Keep discussions and the meeting on track;
- Insure that all meeting participants are treated with respect; and
- Sign official minutes of the Board or Commission immediately following approval.

### 3.4 Vice Chair (or Vice President)

The *Vice Chair* shall:

- Fulfill the responsibilities of a *Board or Commission Member*; and
- Assume the *duties of the Chair* during his or her absence.

### 3.5 Council

The *Council* shall:

- Establish Boards, Commissions, and Committees they deem appropriate to guide, advise, and/or implement policies in the community;
- Establish rules and regulations governing Boards, Commissions, and Committees;
- Ratify the By-Laws of Boards and Commissions;
- Implement processes for recruiting, interviewing, selecting, and appointing Board, Commission, and Committee members;
- Interview, select, and appoint Board and Commission members, as deemed necessary;
- Appoint Committee members or select a designee to do so;

- Appoint a member of the Council to serve as a Liaison to a Board, Commission, or Committee, as deemed necessary;
- Communicate expected outcomes and/or boundaries to Boards, Commissions, and Committees;
- Schedule periodic Joint Meetings or reports from Boards or Commissions; and
- Remove Board and Commission members, when necessary, in accordance with the Code of Gilbert, Section 1-205.

### 3.6 Council Liaison

A Councilmember is appointed, if appropriate, to serve as a *Council Liaison* to a Board, Commission, or Committee.

The *Council Liaison* shall:

- Attend Board, Commission, or Committee meetings;
- Communicate Council policies and boundaries to the Board, Commission, or Committee;
- Coordinate with the Clerk and Staff Liaison to schedule joint meetings of the Council with the Board or Commission, as needed;
- Recommend appointments to fill vacancies on Boards, Commissions, or Committees upon conclusion of the selection and interview process;
- Provide guidance to Boards, Commissions, or Committees, when appropriate;
- Encourage and support Board, Commission, or Committee members to achieve their mission within the boundaries established by Council; and
- Provide regular updates to the Council on Board, Commission, or Committee meetings, activities, and accomplishments.

### 3.7 Staff Liaison

The *Staff Liaison* shall:

- Provide Board, Commission, or Committee members with codes, by-laws, membership lists, or other documents needed to fulfill their duties;
- Educate and provide guidance on policies, codes, and procedures that apply to the Board, Commission, or Committee;

- Mentor the Chair and Vice Chair so they understand and perform their responsibilities;
- Provide guidance, as appropriate, to Board, Commission, or Committee members;
- Prepare, or supervise the preparation of, Board, Commission, or Committee agendas, staff reports, and related materials;
- Schedule on the next Board, Commission, or Committee agenda an item following Council appointments where new and reappointed members will publicly take an Oath of Office;
- Post, or assign staff, to post all agendas *at least 24 hours before any meeting* at Gilbert's two official posting locations: *Gilbert Municipal Center and the Town of Gilbert website*;
- Send agenda and meeting notices for posting on the Gilbert website. *The agenda must be provided in advance so that it can be posted to the website at least 24 hours before any meeting*;
- Prepare, or assign department staff or contract workers, to record official minutes of the Board, Commission, or Committee meetings;
- Send draft minutes, or actions, for posting on the Gilbert website within three (3) working days of all meetings. *Minutes should be clearly marked "draft"*;
- Insure staff forwards the original signed copy of the official minutes to the Clerk upon approval of the Board, Commission, or Committee so minutes can be scanned, posted, and accessible on the website within two working days of approval;
- Coordinate with the Council Liaison and Clerk to schedule joint meetings and reports to the Council, as needed;
- Prepare Council Communications for Board, Commission, or Committee reports and/or recommendations to Council;
- Maintain, or supervise the maintenance of, official Town records for the Board Commission, or Committee excluding the official minutes maintained by the Clerk;
- Communicate statutory requirements with guidance of the Attorney, when appropriate, and insure compliance with the law;
- Insure compliance with the Open Meeting Law;
- Obtain Conflict of Interest forms from Board, Commission, or Committee members who declare a Conflict of Interest and submit completed forms to the Clerk;

- Consult with the Attorney or Clerk, as appropriate, to obtain guidance related to the Open Meeting Law, Conflicts of Interest, Public Records, and other requirements;
- Monitor Board or Commission attendance at meetings for compliance with the Code of Gilbert, Section 1-205; and
- Notify the Town Clerk of any Board or Commission absences which exceed acceptable standards; except for members of the slum clearance and Redevelopment Commission, and except for any absence occasioned by active duty in the United States Armed Forces or serious illness, as determined by the council liaison of the body; established in accordance with the Code of Gilbert, Section 1-205(b).

### 3.8 Clerk

The Clerk, or designated Clerk's Office staff, shall:

- Contact incumbents to determine whether they wish to be considered for reappointment;
- Initiate and distribute notices for openings on Boards and Commissions to local newspapers, the Digital Government Department, and the Gilbert website;
- Maintain a list of people and their areas of interest to be used for filling seats on Special Committees/Task Force;
- When directed, Initiate and distribute notices for openings on Special Committees/Task Force to local newspapers, the Digital Government Department the Gilbert website
- Distribute and accept applications for Boards, Commissions, and Committees;
- Coordinate with the *Vice Mayor* and/or *Council Liaison*, as appropriate to facilitate recruitment, selection, appointment, and recognition of Board, Commission, and Committee members;
- Coordinate the process to rank applications by the Council in accordance with the *Council Subcommittee on Board & Commission Application Screening, Interview, and Selection*;
- Schedule dates and times for interviews with the *Council Subcommittee on Board & Commission Application Screening, Interview, and Selection*;
- Provide statutory notices to applicants regarding interviews with the *Council Subcommittee on Board & Commission Application Screening, Interview, and Selection*;
- Prepare and distribute application packets to the *Council Subcommittee on Board & Commission Application Screening, Interview, and Selection*;

- Prepare, post, and retain official minutes for meetings of the *Council Subcommittee on Board & Commission Application Screening, Interview, and Selection*;
- Prepare Council Communications for appointments, resignations, and other actions of Board, Commission, and Committee members;
- Prepare letters of appointment and non-appointment for the Mayor's signature;
- Contact the Staff Liaison following appointment of members so the Staff Liaison can schedule an Oath of Office on the next Board, Commission or Committee agenda;
- Coordinate and schedule annual and/or other training of Board or Commission members as directed by Council;
- Coordinate recognition processes of Board or Commission members as directed or established by the Council;
- Provide guidance and respond to questions from the *Staff Liaison, or Board, Commission, and Committee members*, regarding requirements of the Open Meeting Law, Conflict of Interest, and Public Records;
- Respond to inquiries from the public, elected officials, and staff on Boards, Commissions, and Committees;
- Notify Board or Commission members of removal from office in accordance with the Code of Gilbert, Section 1-205(b);
- Notify the Council of Board or Commission members removed in accordance with the Code of Gilbert, Section 1-205(b);
- Schedule an interview before Council of Board or Commission members that have been removed from office and are in accordance with the Code of Gilbert, Section 1-205(b) seeking reinstatement;
- Periodically monitor the website to verify that agendas and minutes of Boards, Commissions, and Committees are posted in conformance with Section 4.3 of the Board and Commission Handbook; and
- Periodically review and provide feedback to the Staff Liaison on agendas and minutes to insure documents meet the requirements of the Open Meeting Law.

## **SECTION 4. SPECIAL COMMITTEES & TASK FORCES**

### 4.1 Creation - Code of Gilbert, Section 1-320

- A Committee is a group of residents or non-residents chosen from those expressing interest and selected on an as needed basis to act as a task force to address a specific issue, concern or task.
- The Committee shall be activated by the Council and meet on an as needed basis to address issues, concerns, or tasks set by the Council.
- Committees may address human relations, arts and culture, environmental and energy conservation issues, and other town concerns as determined by Council.

### 4.2 Membership; Terms of Office - Code of Gilbert, Section 1-321

- The Committee shall consist of members approved by the Council. The size of the Committee will be determined by the Council according to the task and resources necessary to complete the assignment.
- Council may designate someone to select members of a Committee.
- After advising Council on the issue requested, the Committee shall be disbanded if no other tasks are assigned.

### 4.3 Duties – Code of Gilbert, Section 1-322

- The Committee may at the request of council provide recommendations to help inform the decision making of council specific to concerns, problems, or tasks assigned.

### 4.4 Rules and Regulations – Code of Gilbert, Section 1-323

- Committees shall follow established procedures as provided by staff.
- Procedures will include Committee structure, selection process, purpose, meeting information and other such information that is necessary to complete the assigned duties.

## SECTION 5. MEETINGS

### 5.1 Agendas and Meeting Packets

An agenda is prepared and posted for all meetings. Meeting packets are prepared and distributed, generally prior to a meeting, which may include staff reports and related materials to assist Board, Commission, or Committee members in preparing for the meeting.

All agendas are posted in accordance with the Open Meeting Law at least 24 hours prior to the meeting at Gilbert's two official posting locations: *Gilbert Municipal Center and the Town of Gilbert website.*

### 5.2 Other Gatherings

On occasion, a quorum of a Board, Commission, or Committee may attend a conference, social event, or similar activity. *Board, Commission, and Committee members must exercise extreme caution to insure violations of the Open Meeting Law do not occur. These events are not meetings as defined by the Open Meeting Law and are not posted as a meeting.*

### 5.3 Official Minutes & Legal Actions

Official minutes are prepared for Board, Commission, or Committee meetings, including any Subcommittees of Boards, Commissions, or Committees. The official minutes must include the date/time/place, members present or absent, a general discussion of the matters discussed, and an accurate description of any actions taken.

*A verbatim transcript of meetings is generally not taken. Certain Boards, Commissions, or Committees may record meetings on audio, video, or similar media. If meetings are recorded for use other than to prepare minutes and are not immediately disposed of upon completion of the minutes, the audio or video, or similar media is a public record and must be maintained and disposed of in accordance with *Gilbert's Record Management Standards and Retention Schedules.**

Upon approval and execution of the official minutes, the Staff Liaison, or designee, is required to immediately submit original minutes of Boards, Commissions, and Committees to the Clerk. The Clerk retains the official minutes as a permanent record.

The Open Meeting Law requires cities and towns over 2,500 that have a website to post meeting notices and legal actions. Approved minutes must be posted to the Gilbert website. Effective September 30, 2009; draft minutes, or actions, posted to the website must be retained on the website for at least one year.

Gilbert adopted the following practices to comply with these requirements. These practices provide consistency between the Council and Boards, Commissions, and Committees so the public can readily access information.

- Post, or assign staff, to post all agendas *at least 24 hours before any meeting* at Gilbert's two official posting locations: *Gilbert Municipal Center and the Town of Gilbert website*;
- Post draft minutes to the Gilbert website within three (3) working days of a meeting. The draft minutes contain all legal actions taken. In limited cases, actions are posted in lieu of draft minutes.
- Provide signed minutes to the Clerk immediately following approval to allow for posting minutes to the Gilbert website within two (2) working days of approval.
- Maintain draft minutes, actions, and approved minutes on the Gilbert website for at least one year after posted.

#### 5.4 Conduct

Board, Commission, or Committee members are representatives of the Town. *The following information serves as a guide to Board, Commission, or Committee members when acting as a representative of the Town:*

- Act in a professional manner at meetings when representing the Town, even when diverse ideas and opinions are presented.
- Be aware that opinions publicly expressed (to the public, press, stakeholders, etc.) by an individual member reflects only the individual's view and may not be represented as a Board, Commission, or Committee statement or position without public posting and opportunity for approval by all Board, Commission, or Committee members.
- Never use your position or information in the performance of duty as a means for making private profit or advancing the financial interest of others.
- Never discriminate unfairly by dispensing special favors or privileges to anyone, whether or not for payment.
- Never accept gifts or benefits that could be construed by reasonable persons as influencing the performance of official duties. *Any gifts accepted must be reported in accordance with Policy Statement 2012-03 Code of Ethics (Appendix D).*
- Exercise caution to avoid statements being construed as promises or binding upon the duties of office.
- Avoid negotiations entered into by the Town involving the purchase or sale to the Town of land, goods, or materials while acting in the capacity of a public official. In

the event this occurs, certain guidelines must be observed. *See Section 7 Conflict of Interest.*

## 5.5 Parliamentary Procedure

Board, Commission, and Committee meetings are generally conducted in accordance with Roberts Rules of Order. Board, Commission, and Committee members are expected to understand basic parliamentary procedure. The following provides information on basic parliamentary procedure to serve as a guide.

### 5.5.1 Quorum

A quorum is the number of members needed to conduct business. In most cases, a quorum is a majority of the members. Therefore, a Board, Commission, or Committee with seven members would need four members for a quorum.

*The By-Laws of a Board, Commission, or Committee may set forth the number of members that constitute a quorum.*

### 5.5.2 Motion

There are a variety of acceptable forms in which to make a motion. The role and formality of the Board, Commission, or Committee will determine what is most appropriate. Motions are not required for discussion items but are used when making decisions and recommendations. Motions may also be used to provide direction to staff, but are not required when providing direction. Motions should be clear and concise so other Board, Commission, or Committee members understand the action upon which they are voting.

A motion requires a second to be discussed or considered by the Board, Commission, or Committee. In the event there is no second, the motion is not discussed or considered and dies for the lack of a second.

Motions are stated in a variety of ways, and are generally stated by beginning with:

- I move...
- Move for...
- Motion to...

The following examples show the same action stated in different manners:

- I move for approval of the staff report;
- I move the recommended action;
- Move for approval of the staff report;
- Move for approval (if the subject has been previously stated);
- Motion to approve the staff report, as submitted.

The complexity of the role of the Board, Commission, or Committee may also determine the formality and complexity of motions.

- Motion to recommend approval to the Council of the findings of fact and Zoning Case XXX subject to the conditions contained in the draft ordinance.
- Move to approve Case XXX with the staff recommendation and (insert additional conditions of approval).
- Move to recommend adoption of the proposed Parks and Recreation fees to Council.

After a motion is seconded, the Board, Commission, or Committee members may comment and/or discuss the proposed action.

Following discussion, the Chair calls for a vote and announces the results. Votes can be taken using electronic voting equipment, by voice, by roll call, or by a show of hands.

#### 5.5.3 Amending a Motion

A subsidiary motion can be made to amend a motion to add, substitute, or take away from the original motion.

An amendment might be stated as:

- Move to amend the motion to delete condition xx.
- Move to amend to add a new condition (state condition).

In the event an amendment is made, the amendment is voted upon first.

If an *amendment passes*, it has the effect of changing the original motion. A vote on the original motion, as amended, follows.

If an *amendment fails*, there is no change to the original motion. A vote on the original motion is taken.

#### 5.5.4 Reconsideration

On occasion, a Board, Commission, or Committee member may feel that an action should be reconsidered and moves to reconsider an agenda item. *A member that voted on the prevailing side must request reconsideration.* If the motion for reconsideration is approved, the Chair reopens the item.

Under Roberts Rules of Order, an item may also be considered on the next day, or in the case of a Board, Commission, or Committee, at the next meeting. Due to the requirements of the Open Meeting Law, reconsideration at the next meeting must be listed on the agenda. *A Board, Commission, or Committee member that voted on the prevailing side and is requesting reconsideration at the next meeting must contact the Staff Liaison so the item is included on an agenda that is posted in compliance with the Open Meeting Law.*

## 5.6 Subcommittees

Subcommittees formed or appointed by a Board or Commission to make recommendations to the Board and Commission must comply with the Open Meeting Law. The Staff Liaison should contact the Clerk to determine whether the Open Meeting Law pertains to the Subcommittee. The Clerk consults with the Attorney, if needed.

Any subcommittee formed by a commission or board shall be members of the commission or board. Subcommittees may solicit advice and assistance from outside sources, but those advisors have no official status with the subcommittee in accordance with the Code of Gilbert, Section 1-202(h).

## SECTION 6. LAWS AND OTHER DOCUMENTS

### 6.1 Code of Gilbert

The Code of Gilbert sets forth local laws adopted by the Mayor and Council. Laws are adopted by Ordinance.

All Board, Commission, and Committee members are subject to the requirements found in the Code of Gilbert, Chapter 1, Article IV Boards, Commissions and Committees, Division 1 Generally. Other requirements governing specific Boards, Commissions, or Committees may be found in Article IV Board, Commissions, and Committees.

*A copy of the Code of Gilbert, Chapter 1, Article IV Boards, Commissions and Committees, can be found in Appendix C.*

### 6.2 Council Policy Statements

Council may establish policies through a Council Policy Statement. The following Council Policy Statements relate the Boards, Commissions, and Committees.

#### Policy Statement 2012-03 Code of Ethics

The Code of Ethics establishes standards of conduct for Gilbert's Public Officials. Topics covered in the policy address the responsibilities of public service, Open Meeting Law, Conflicts of Interest, Confidential Information, Council Relations with Other Public Bodies and Agencies, Code of Ethics Training, Procedures, and Enforcement.

#### Policy Statement 2012-05 Electronic Equipment and Services Policy

Certain Boards, Commissions, and Committees may use electronic equipment and services that may include email accounts, iPads, personal computers, or accounts in Dropbox or similar cloud computing. The policy sets forth what users must comply with if they are assigned these devices or services.

*A complete copy of these Policy Statements can be found in Appendix D.*

### 6.3 Other Town Codes and Documents

Local laws are also found in Codes or documents adopted for a specific purpose, such as the Land Development Code, the General Plan, the Subdivision Regulations, and similar Codes. The Staff Liaison provides the Board, Commission, or Committee members a copy of any Codes or documents needed to perform their duties.

#### 6.4 By-Laws

Boards and Commissions may also have By-Laws that contain requirements specific to the Board or Commission. By-Laws may include information on meetings, quorums, membership, or other matters of procedure affecting the Board or Commission.

*The Staff Liaison to your Board or Commission will provide By-Laws, if applicable.*

#### 6.5 State Laws

The Arizona Revised Statutes contain the laws of the State of Arizona. Gilbert is a General Law municipality, which means it does not have a Charter and its authority is set forth in the laws of the State of Arizona.

There are three laws of importance to Boards, Commissions, and Committees: the Open Meeting Law, the Conflict of Interest Law, and the Public Records Law. Detailed information on the application of these laws is explained in subsequent sections. *Annually, Board and Commission members are required to attend training on these laws as set forth in the Code of Gilbert.*

Certain Boards, Commissions, or Committees may be subject to other statutory requirements that establish authority and processes. These include the Redevelopment Commission, Planning Commission, Industrial Development Authority, and Municipal Property Corporations. The Staff Liaison is responsible for communicating these requirements and ensuring compliance.

#### 6.6 Other Documents

The League of Arizona Cities and Town created “*You as a Public Official*”. This publication covers a variety of topics applicable to you as a Board, Commission, or Committee member. The majority of information contained in this document pertains to Board, Commission, or Committee members, although Board, Commission, or Committee members are not subject to Annual Financial Disclosure.

*A copy of “You as a Public Official” can be found in Appendix E.*

## SECTION 7. OPEN MEETING LAW

It is the policy of the State of Arizona that the public's business will be conducted in public. The State Legislature has adopted a law known as the "*Open Meeting Law*" applicable to public bodies and public officers. To comply with the Open Meeting Law, the Staff Liaison is responsible for preparing, or supervising the preparation of agendas; posting agendas; posting draft minutes or actions; and posting approved minutes.

Board, Commission, and Committee members must exercise caution when interacting with other Board, Commission, and Committee members. *Board, Commission, and Committee members should not congregate after meetings and discuss business of the Board, Commission, or Committee including the meeting that took place.*

The following are typical questions asked about the Open Meeting Law.

### 1. *What is the Open Meeting Law?*

The policy of the State is that the public's business should be conducted in public. The Open Meeting Law contains the rules that public bodies have to follow to assure that this policy is carried out.

### 2. *Is my Board/Commission/Committee a "public body" under the Open Meeting Law?*

Yes. All Boards, Commissions and Committees appointed by the Mayor or the Council are "public bodies" governed by the Open Meeting Law. According to the Attorney General's office, a public body also includes a committee appointed by the Manager if it is the intention that the committee will provide recommendations to the Council. On the other hand, a committee appointed by the Manager to provide advice only to the Manager would not be a "public body." If a Department Director appoints a committee to research and advise him or her, the committee is not a "public body."

### 3. *What is a meeting?*

Any time a quorum of the public body discusses, proposes or takes legal action related to municipal business, a meeting is being held. "Legal action" includes collective decisions, commitments or promises of the public body and is not necessarily a formal vote. A series of gatherings of less than a quorum can result in a meeting, especially if a consensus is reached. The gathering of the quorum may be held with one or more members participating by telephone or video conferencing. A meeting may also result from discussions had by e-mail if a quorum is involved and a "discussion" is taking place about municipal business. Great care should be taken in the use of e-mail to be sure you do not violate the Open Meeting Law.

**4. *If my Board/Commission/Committee is going to have meeting, what do we have to do?***

The law requires that public bodies of the municipality must file a statement with the Clerk or Mayor's Office stating where public notices of their meetings will be posted and on the internet if the municipality has an internet site. The law also requires that the public body "shall give such additional public notice as reasonable and practical as to all meetings." In addition, meetings may not be held without at least 24-hours' notice to the members of the public body and to the general public. In Gilbert, notices of meetings are posted at the following locations:

- Gilbert Municipal Center, 50 East Civic Center Drive
- Town of Gilbert website: <http://www.gilbertaz.gov/departments/clerk-s-office/legal-public-notices>

An agenda must include the date, time and place of the meeting. It must also include an agenda of matters to be discussed or decided at the meeting or information on how the public may obtain a copy of the agenda.

There is an exception for an "actual emergency," in which case the meeting may be held without the required 24-hour notice so long as the notice is posted within 24-hours declaring that the emergency meeting has been held. In that case, the notice must include a discussion of the specific matter consider/decided at the meeting. There are very few circumstances that qualify as "actual emergency" and unless a flood or fire is racing through the municipality that absolutely requires your Board, Commission or Committee to hold a meeting related to that flood or fire, you probably do not have an emergency that would qualify under the Statute.

**5. *Can we discuss matters not on the agenda?***

No, unless there is "actual emergency" (see above).

**6. *May there be a "communications from citizens" on the agenda?***

Yes, but the member of the public who is speaking is only allowed to address the public body on an issue within the jurisdiction of the public body. The public body may not discuss the matter raised by the member of the public but, at the conclusion of the open call to the public, individual members of the public body may respond to criticism made by those who have addressed the public body, may ask staff to review a matter, or may ask that a matter be put on a future agenda.

**7. *May the agenda include an item permitting individual members of the Board/Commission/Committee to make a statement or report (without discussion) at the end of the meeting?***

Yes. The law does permit the public body to include on the agenda an item to “Report on Current Events” by the Chair, Board/Commission/Committee member, and Department Director [or other principal staff person in charge of the Board/ Commission/Committee]. At that time, the individual may make a report to the public and public body. However, the public body may not discuss or take legal action on the matter unless the matter has also been listed on the agenda.

**8. *Does my Board/Commission/Committee have to keep minutes of the meetings?***

Yes. Your Board/Commission/Committee must take minutes.

**9. *What has to be included in minutes?***

For meetings other than executive sessions (see below), minutes must include:

- a. The date, time and place of the meeting.
- b. The members of the public body recorded as either present or absent.
- c. A general description of the matters discussed.
- d. An accurate description of all legal actions proposed, discussed or taken and the names of members who propose each motion. The minutes shall also include the names of the persons, as given, making statements or presenting materials to the public body and a reference to the legal action about which they made statements or presented material.

The minutes must be open to public inspection three working days after the meeting. If there is a recording, the recording can be made available and the written minutes can follow later.

**10. *Do our minutes have to be posted on a website?***

Yes, for municipalities with a population of more than 2,500 persons and that have an internet site. A statement showing the legal actions taken by the public body must be posted within 3 working days following the meeting. Draft minutes meet this requirement. Approved minutes to city or town councils must be posted within 2 working days after approval.

**11. *Can my Board/Commission/Committee meet in private?***

Yes, if it is for one or more of the specific purposes listed in the statute for which public bodies may meet in private. Those purposes are:

- a. Discussion of employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of the public

officer, appointee or employee. Generally, your Board/Commission/Committee will not have these discussions since you have no jurisdiction to appoint, promote, demote, or take other employee actions.

- b. Discussion of records exempt by law from public inspection.
- c. Discussion or consultation for legal advice with the attorney or attorneys of the public body.
- d. Discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, pending or contemplated litigation or settlement discussions conducted in order to avoid or resolve litigation.
- e. Discussion with the public body's representatives regarding negotiations with employee organizations regarding salaries, salary schedules and compensation.
- f. Discussion for international or interstate negotiations or with members of a tribal council of an Indian reservation located within or adjacent to the municipality.
- g. Discussions with the public body's representatives regarding its position on the purchase, sale or lease of real property.

Most executive sessions of your Board/Commission/Committee will be for the purpose of receiving legal advice.

**12. *If we have an executive session, do we have to keep minutes?***

Yes. However, minutes are kept confidential except from members of the public body that met in executive session and officers, appointees, or employees who are the subject of discussion if the executive session was held for personnel reasons.

**13. *Can I use email to communicate with my fellow board members?***

Yes, but with caution. Use of email can constitute a meeting when the email proposes legal acts or when there is an exchange of facts and/or opinions if it is foreseeable that the topic may come before the board for action. For example, the Attorney General's Office cautioned that even a single email—without any responses—could violate the Open Meeting Law if the email is sent to a quorum of the public body and proposes legal action. Moreover, if a majority of the board responds to an email, it can constitute action for an illegal meeting. Be careful in responding to all and of chain emails. Use of emails in this manner can constitute a meeting which has not been properly noticed.

**14. *Can I express my opinion to the news media or discuss an issue with the public if I know other board members may read or hear my comments?***

Yes. The Open Meeting Law does not prohibit a member of a public body from voicing an opinion or discussing an issue with the public either at a venue other than a public meeting or through news or social media outlets so long as (1) the opinion or discussion is not principally directed at or directly given to another member of the public body, and (2) there is no concerted plan to engage in collective deliberation to take legal action. Additionally, the Attorney General's Office has released an opinion that a meeting does not occur when members of the public body merely hear or read a comment made by another member of the public body in the media.

**15. *What happens if my Board or Commission violates the Open Meeting Law?***

The first thing that happens is that any action you took in violation of the Open Meeting Law is null and void.

The second thing that happens is that the Attorney General or County Attorney's Office may investigate a complaint alleging a violation of the Open Meeting Law and conduct an investigation. The Attorney General or County Attorney has broad powers to inspect all documents, require any person to submit a report or make a statement and issue investigative demands for production of documents. If a public body or an officer refuses, the Attorney General or County Attorney may go to court to get an order for enforcement.

Upon a finding that a public officer has violated the Open Meeting Law, a court may impose a civil penalty not to exceed \$500 for each violation against the person who violates the article or knowingly aids, agrees to aid or attempts to aid another person in violating the Open Meeting Law. If the court determines that a public officer intended to deprive the public of information, a court may remove the public officer from the office and shall assess him with all costs and attorney fees awarded to plaintiff in pursuing the action.

The municipality may not expend public monies to retain legal counsel to provide legal services to the public body or an officer unless the public body takes legal action at a public meeting to approve the expenditure.

Additional information on the Open Meeting Law is available. See [Attorney General's Arizona Agency Handbook, Chapter 7](#) and the Arizona Ombudsman's [Open Meeting Book](#).

## SECTION 8. CONFLICT OF INTERESTS

At times, Board and Commission members may need to declare a conflict of interest. The following questions will assist in determining whether or not you have a conflict of interest.

**1. *How do I know if I, as a member of a public body, have a conflict of interest?***

The first question you have to ask is whether, in any matter that comes before your Board, Commission or Committee, you have a “pecuniary” interest in the outcome. A pecuniary interest is any matter where you stand to gain or lose something of value from the decision.

**2. *If I determine I have a pecuniary interest in a decision, then what?***

You need to determine whether your interest is a “remote interest.” A remote interest is any of the following:

- a. The interest of a non-salaried officer of a non-profit corporation.
- b. The interest of a landlord or tenant of the contracting party.
- c. The interest of an attorney of a contracting party.
- d. The interest of a member of a non-profit cooperative marketing association.
- e. The ownership of less than three percent of the shares of a corporation for profit, provided the total annual income from dividends, including the value of stock options, from the corporation does not exceed five percent of the total annual income of such officer or employee and any other payments made to him by the corporation do not exceed five percent of his total annual income.
- f. The interest of a public officer or employee in being reimbursed for his actual and necessary expenses incurred in the performance of official duty.
- g. The interest of a recipient of public services generally provided by the incorporated city or town, political subdivision or State department, commission, agencies, body or board of which who is a public officer or employee on the same terms and conditions as if he were not an officer or employee.
- h. The interest of a public school board member when the relative involved is not a dependent or a spouse.

- i. The interest of a public officer or employee or that of a relative of a public officer or employee unless the contract or decision involved would confer a direct economic benefit or detriment upon the officer, employee or his relative of any of the following:
    1. Another political subdivision;
    2. A public agency of another political subdivision; or
    3. A public agency except if it is the same governmental entity.
  - j. The interest of a member of a trade, business, occupation, profession or class of persons consisting of at least ten members which is no greater than the interest of the other members of the trade, business, occupation or profession or class of persons.
- 3. *If I determine that my pecuniary interest does not fit into one of the above exceptions, then what?***

If your pecuniary interest does not fit one of the above exceptions, then you have a “substantial interest.” *If the interest fits into one of the above exceptions, you do not have a conflict of interest.*

- 4. *If I have a substantial interest in a decision or matter coming before my Board/Commission/Committee, what should I do?***

You must not take part in any discussion or action involving that matter. You do not have to resign from the Board/Commission/Committee. However, you must “make known” your substantial interest in the public records. The Clerk has a form for you to fill out that you will keep on file. You must disclose on that form the substantial interest that you have that resulted in the conflict of interest.

- 5. *What happens if I violate the conflict of interest laws?***

Any person affected by the decision of the public body may commence a civil suit in Superior Court for the purpose of enforcing the law. The Court may award reasonable attorneys’ fees to the prevailing party. Intentionally or knowingly violating the conflict of interest laws is a Class VI Felony. Recklessly or negligently violating the conflict of interest laws is a Class I Misdemeanor. A person found guilty might be required to forfeit his public office.

## SECTION 9. PUBLIC RECORDS

The Town's records are the property of the State of Arizona. State laws require that records be maintained in accordance with the laws, standards, and requirements developed and implemented by Arizona State Library, Archives, and Public Records.

*The Arizona Revised Statutes define records as books, papers, maps, photographs, or other documentary materials, regardless of physical form or characteristics, made or received by any governmental agency in pursuance of law or in connection with the transaction of public business. Therefore, records include databases and electronic information.*

The *Staff Liaison* is responsible for maintaining records of the Board or Commission.

State law governing records disclosure and protection of the public's right to know require that the municipality permit examination and/or reproduction of records.

Agenda packets and other materials provided to Boards, Commissions, and Committees by Town staff are retained by Town staff if they are a record. Board, Commission, and Committee members may dispose of the agenda after the meeting. If a Board, Commission, or Committee member keeps notes on agenda packets and retains the packets they are subject to disclosure if Gilbert receives a public records request or a subpoena.

Electronic mail (e-mail) may be used to transmit documents or may be a record in itself. *Board and Commission members must exercise extreme caution in the use of e-mail if communicating with other Board and Commission members so a meeting does not take place.* Generally, it is acceptable to disseminate information via electronic mail but no discussions should occur or there is a risk that the communication may violate the Open Meeting Law. *Board, Commission, or Committee members that use private email accounts are responsible for forwarding record emails to the Staff Liaison for retention in conformance with the law.*