

City of South Portland Boards and Committees Policy

Section 1. Purpose.

The City has many boards, committees and commissions and therefore a lot of persons serving as “public officials.” State law, including the Freedom of Access Act, imposes numerous requirements on the manner in which a local board, committee or commission can conduct its business. Many board/committee members, especially those who serve or have served on nongovernmental boards, are surprised by the restrictions placed on how they, in their capacity as local board/committee members, must conduct board/committee business. The honor and privilege of serving on a City board/committee comes with the added responsibility of learning and complying with the requirements of conducting board/committee business. The individuals who serve on City boards/committees are among the most respected and appreciated volunteers in the community. The City Council wants to ensure that it adequately prepares these individuals for their public roles.

Section 2. Definitions.

Board/Committee means any City board, committee, or commission whose entire membership has been appointed by the City Council, without regard to whether it is a standing or an *ad hoc* board, committee, or commission.

Chair means the presiding officer of a board/committee.

City staff liaison means the City employee who has been assigned to provide logistical support and a line of communication between the board/committee and the City Manager and/or the City Council. All boards/committees have at least one City employee assigned as a liaison. Such liaison is determined by the City Manager, unless otherwise prescribed by ordinance or Council order. Such liaison has the same speaking privileges as board/committee members, unless otherwise prescribed by ordinance or Council order.

Freedom of Access Act or ***FOAA*** means the Maine Freedom of Access Act, codified at 1 M.R.S. §§ 401-411. Its underlying policy is that the City’s business is to be conducted openly, with proper notice and ample opportunity for the public to attend public meetings and the availability of public records for inspection and copying.

Remote means is any form of audio and visual conference technology, or audio conference technology, including teleconference, videoconference, and voice over internet protocol, that facilitates interaction between the public and board/committee members.

Remote meeting means a public proceeding, as defined in 1 M.R.S. § 402(2), conducted by remote means.

Social Media is understood to be content created by individuals, using accessible, expandable, and upgradable publishing technologies, through and on the Internet. Examples of social media include Facebook, Twitter, YouTube, Pinterest, LinkedIn, and Instagram.

Section 3. Orientation for New Board/Committee Members

The City Clerk will prepare and make available to every new board/committee member a Guide for New Board/Committee Members to provide a brief overview of each City board/committee and an overview of applicable State laws and City ordinances, policies and protocols. The Guide will be updated periodically as needed. The Guide will include a set of Frequently Asked Questions about the Freedom of Access Act prepared by the Corporation Counsel.

Section 4. Training for New Board/Committee Members.

(a) Effective May 1, 2021, all current and newly appointed officials must complete training on the requirements of Maine's Freedom of Access Act relating to public records and proceedings within 1 month after the official takes the oath of office for newly appointed officials and by July 1, 2021 for officials serving as of April 1, 2021. The training must be designed to be completed in less than 2 hours and include instruction in: the general legal requirements regarding public records and public proceedings; the procedures and requirements regarding complying with a request for a public record; and the penalties and other consequences for failure to comply with the law. Appointed officials can complete the training requirement by conducting a thorough review of the material on the Frequently Asked Question (FAQ) page of the State of Maine's FOAA website (<https://www.maine.gov/foaa/faq/index.shtml>), by watching the recording of the most-recent City-sponsored Freedom of Access Act training, or by completing another training course that includes all of this information but may include additional information. Evidence of completion of this training shall be completing a short test of FOAA comprehension and by filing the certificate of completion with the City Clerk on a form available in the City Clerk's Office.

(b) The City encourages board/committee members to take advantage of training opportunities available through the Maine Municipal Association or other area organizations that address good local boardsmanship or other topics germane to the board/committee members' powers and duties.

Section 5. Scheduling and Providing Notice of Public Meetings.

(a) How to Schedule a Board/Committee Meeting. City boards and committees are required to conduct their business at public meetings that are properly notice to the public in time for the public to be able to attend. In order to schedule a public meeting and give ample notice to the public, meetings must be scheduled by the board/committee Chair (or his/her/their designee) in conjunction with the board/committee's City staff liaison, Meetings

must be scheduled in conjunction with the board/committee's City staff liaison, as the City staff liaison or his/her/their designee must be present at all committee meetings.

(b) Use of BoardDocs for Creating and Publishing Board/Committee Meeting Agenda. The City has contracted with BoardDocs, an agenda management cloud-based platform, to create and publish board/committee agendas. Effective January 31, 2022, all City boards/committees will use BoardDocs to create and publish meeting agendas. All supplemental materials, including meeting minutes, that are distributed to board/committee members shall be added as attachments to the applicable item on the agenda where they will be made available to the public. The City staff liaison in conjunction with the board/committee Chair and/or Secretary will be responsible for publishing the committee agendas through BoardDocs by Friday at 11:00am the week prior to any scheduled meeting. The City Clerk will work with board/committee City staff liaison(s) and board/committee Chairs/Secretaries with the set up and training of BoardDocs for boards/committees.

(c) The Board/Committee Meeting Agenda. The meeting agenda serves as notice to the public that a meeting is happening and an invitation to attend. The agenda must contain the following: Name of the board/committee, time and location where the board/committee is meeting (*if meeting by Zoom, must include the meeting invite information*), and list of topics that will be discussed and possibly decided at the meeting. All supplemental materials that are being distributed to board/committee members shall be added as attachments to the applicable item on the agenda where they will be made available to the public.

(d)

(e) The City's Weekly Calendar. The City Clerk's Office is responsible for posting the weekly meeting list each Friday (by 4:30 pm). This list contains information about all upcoming public meetings for the following week. This list is sent out to the public, to the media, and posted at City Hall and on the City Calendar on the City's website. The City Clerk's office will print an agenda from the list of board/committee meetings published through BoardDocs for posting on the City's website under "Agendas & Minutes" and at City Hall.

In order to give proper public notice, it is required that meeting agendas published by the Friday 11:00am deadline. The public expects this information to be posted by the deadline and the city has a legal obligation to post it in a timely manner. If the board/committee meeting agenda is not published by the Friday 11:00am deadline, the meeting may not be held the following week.

(f) Emergency Meetings. If an urgent matter arises that calls for urgent action, an emergency meeting may be scheduled. If an emergency meeting must be held, notice must be sent to the City Clerk in the form of an agenda *at least 24 hours before* the meeting. It is not acceptable to schedule an "emergency meeting" due to missing the Friday agenda deadline. Effective January 31, 2022, the agenda must be published through BoardDocs, along with any applicable materials,

at least 24 hours before the meeting.

(g) Remote Meetings. The conduct of meetings via remote means shall be in accordance with Maine law and the City's Remote Meeting Policy.

(h) Minutes. City boards and committees are required to, and are responsible for, recording written minutes that capture the date, time, place of meeting; a record of who was present or absent of the members of the board/committee; and a record of all motions made and votes taken (and who made what motion) by the board/committee. The audio or video recording required under subsection (g) below does not serve as the board/committee meeting minutes.

(i) Recording of Meetings. Board/committee meetings shall be recorded by audio or video recording technology, and the board/committee shall make the recording of the meeting electronically available to the City staff liaison and for public access as soon as practicable after the meeting.

Section 6. Public Records.

All board/committee documents, drafts, agendas, minutes, notes, electronic communications and materials relating to the board/committee business are subject to Maine's public records disclosure law, the Freedom of Access Act, as may be amended. Board/committee members are responsible for responding completely and accurately to any request for public records, with assistance, if necessary, from the City's Public Access Officer. Records related to City business shall be maintained in an accessible format and so that they can be produced in response to a FOAA request.

Section 7. Record Retention.

Maine's record retention law, 5 M.R.S. § 95-B, as may be amended, and relevant record retention schedules apply to all board/committee documents, drafts, agendas, minutes, notes, electronic communications and materials relating to the board/committee. The board or committee shall preserve records required to be maintained pursuant to a relevant records retention schedule for the required retention period in a format that preserves the integrity of the original record and is easily accessible.

City boards and committees are required to and are responsible for recording minutes that capture the actions taken by the board/committee, and to maintain all records related to their work. These are all public records, subject to the State record retention laws. The board/committee may designate an officer, such as the committee Secretary, to create and keep these documents.. Effective January 31, 2022, all minutes shall be published in BoardDocs where they will be made available to the public and preserved. The City Clerk's Office is the City department responsible for the retention of all City board and committee meeting records. These records include, but are not limited to agendas, minutes, and meeting packet material (such as attachments, presentations, documents, and reports). These materials are posted on the City's website and are kept on file in the City Clerk's Office for public access and retention purposes. Effective January 31, 2022, all board/committee meeting packet material shall be published through BoardDocs.

As part of the winding up of the business of an ad-hoc committee that has completed its service to the City, all committee materials from individual members and the committee generally are to be forwarded to the City Clerk's Office or published via BoardDocs so that the Clerk's Office will have the materials available upon request.

Section 8. Board/Committee Use of Email.

(a) Retention of emails. To the extent that board/committee members use email to communicate about City business, all emails are public records, subject to the State record retention laws, no matter what account (personal, office, City) is used and not matter what device is used.

(b) Use of City email accounts. If a board/committee requests use of a City email account for City business, absent special circumstances, the IT Director shall obtain a license for one City email address for the board/committee (*e.g.*, conservation@southportland.org). The board/committee's City email address will be managed by the City staff liaison to the board/committee, and communications from members can be sent to the City email, and the City staff liaison will be responsible for sending those communications out to the whole committee or on behalf of the committee. To the extent that board/committee members use private email for communications related to City business, a "cc" of each email sent or received relating to City business shall be sent to the email address for the board/committee Inbox.

(c) Use of Email for Communication with Fellow Board/Committee Members. Board/committee members shall avoid the use of electronic communication for deliberation, discussion or voting on matters properly confined to public meetings. Email should only be used for non-substantive matters such as scheduling meetings, dissemination of information and reports, and developing agendas for future meetings. It is not permissible for board/committee members to deliberate, discuss policy, make decisions, approve meeting minutes, or otherwise take action through email, telephone, text or other means outside of a properly noticed public meeting.

(d) Quasi-judicial matters. Email or other forms of electronic communication shall not be used for any deliberation or discussion related to quasi-judicial matters (*e.g.*, license and permit applications, land use applications, administrative appeals, variance applications, tax abatement appeals). In the event a board/committee member receives an email or other communication related to a quasi-judicial matter, the board/committee member should (a) advise the sender by return email that he or she cannot comment outside a public meeting on the pending matter before the board/committee and that the sender's email is being forwarded to the board/committee City staff liaison for inclusion in the public record on the matter; (b) immediately forward the email or other communication to the board/committee City staff liaison for inclusion in the public record of the matter; and (c) disclose on the record in the public hearing or meeting on the matter that the email or other communication has been received and is in the record.

Section 9. Statements on Behalf of the Board/Committee.

No member of a board/committee shall represent to anyone or knowingly allow anyone to infer that he/she/they speaks on behalf of the full board/committee unless that member has been officially designated to speak by act of the board/committee taken at a duly noticed public meeting.

Section 10. Use of the City's Website by Boards/Committees.

The purpose of the City's website is to inform and provide the public with efficient and transparent access to City services, activities, programs and policies that affect its residents, taxpayers and guests. The City's website (www.southportland.org) will remain the City's primary and predominant Internet presence. The City's website and the links that it contains are not

intended to perform as a public forum or blog. Any board/committee-specific web page should be focused and limited in scope and topic to the regular business of the board/committee and should complement rather than supplant the City's main or existing web resources. "Regular business" is defined as the standard and routine activity of any Committee, and generally includes agendas, minutes, event notifications, presentation documents and backup items created during the course of regular board/committee proceedings. This may also include responses or clarifications of items of fact related to the Committee (dates, times, published data, etc.). All board/committee-specific web page content shall be provided to the City Clerk's Office for inclusion on the City's website. The City Clerk is authorized to moderate board/committee-specific web page requested content prior to posting. No elected official, appointed official, board or committee may establish any website identity, domain, account, page, or site in the name of or on behalf of the City or any board or committee separate or apart from the City website that is managed by City staff.

Section 11. Use of Social Media by Boards/Committees.

The City has an overriding interest and expectation in deciding what is "spoken" on behalf of the City on Social Media sites. No elected official, appointed official, board or committee may establish any Social Media identity, account, profile, page, or site in the name of or on behalf of the City or any board or committee except in compliance with the City's Use of Social Media Policy.

Section 12. Subcommittees.

Unless otherwise provided by State law, City ordinance or Council order, the City's policy on subcommittees is as follows:

- (a) Definition of a Subcommittee. A subcommittee is a subunit of a City board or committee established for the purpose of dividing the board/committee's workload. Recommendations of a subcommittee must be approved by the full board/committee before being reported to the City Council. Subcommittees serve at the will of the board/committee and have no independent authority.
- (b) Creation of a Subcommittee. Before a board/committee may create a subcommittee, it shall in writing:
 - (i) Define the purpose of the subcommittee;
 - (ii) Define the scope of the subcommittee's work;
 - (iii) Determine the subcommittee's voting membership and any *ex-officio*, non-voting members;
 - (iv) Provide a time frame for the subcommittee's work;
 - (v) Establish a plan to comply with public meeting and public record retention legal requirements; and
 - (vi) Submit this written plan to the City Clerk's Office, which, in turn, will provide a copy to the City Council for its information (but not its approval).

If a subcommittee is to include non-board/committee members, those non-board/committee members shall be *ex-officio*, non-voting members. Any *ex-officio*, non-voting subcommittee members shall complete the required FOAA training set forth in Section 4 above within 1 month of joining the subcommittee. *Ex-officio*, non-voting subcommittee members serve for a term of one year from the date they are sworn in by the City Clerk.

(c) Work of a Subcommittee. The work of a subcommittee shall consist solely of matters that have had prior review and referral to the respective subcommittee by a vote of the full board/committee or action taken by the subcommittee that has been subsequently ratified by the full board/committee.

(d) Public meeting notice required. All subcommittee meetings of the City of South Portland must be open to the public, and meetings must be preceded by public notice in compliance with public meeting notice requirements as provided in Section 5 above. Subcommittee meetings must be scheduled in conjunction with the board/committee's City staff liaison and every effort shall be made to schedule the subcommittee meetings to allow for attendance of the City staff liaison or his/her/their designee. Effective January 31, 2022, any subcommittee public meeting notice shall be published through BoardDocs.

(e) Retention of records required. Effective January 31, 2022, all documents, drafts, agendas, minutes, and materials relating to the subcommittee must be published through BoardDocs as provided in Section 7 above.

(f) Minutes of subcommittee meeting required. Subcommittees are required to, and are responsible for, recording minutes that capture the date, time, place of meeting; record of who was present or absent of the members of the board/committee; and a record of all motions made and votes taken (and who made what motion) by the board/committee. The audio or video recording required under subsection (g) below does not serve as the board/committee meeting minutes.

(g) Recording of Meetings. Subcommittee meetings shall be recorded by audio or video recording technology, and the subcommittee shall make the recording of the meeting electronically available to the City staff liaison and for public access as soon as practicable after the meeting.

Section 13. Compliance with Policy

This Policy is intended to be self-enforcing and is an expression of the standards of conduct for members of boards/committees expected by the City. It therefore becomes most effective when members are thoroughly familiar with it and embrace its provisions. The City Council does not waive the right to address any violations in the manner it deems appropriate under the specific circumstances.

Date of Adoption: April 27, 2021

Date amended: December 28, 2021