

City Council

Special Meeting Agenda

Monday, January 30, 2012
City Hall, Council Chambers
749 Main Street
6:00 PM

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. APPROVAL OF AGENDA**
- 4. CONSENT AGENDA**

"The following items on the City Council Agenda are considered routine by the City Manager and shall be approved, adopted, accepted, etc., by motion of the City Council and roll call vote unless the Mayor or a City Council person specifically requests that such item be considered under "Regular Business." In such an event the item shall be removed from the "Consent Agenda" and Council action taken separately on said item in the order appearing on the Agenda. Those items so approved under the heading "Consent Agenda" will appear in the Council Minutes in their proper order.

- A. Approval of 4:30 PM Start Time for February 7, 2012 and March 6, 2012
City Council Meetings**

- 5. ETHICS TRAINING**
Presentation by Scotty Krob, Special Counsel
Public Comments (Please limit to three minutes each)
Council Questions and Comments

- 6. ADJOURNMENT**

Citizen Information

If you wish to speak at the City Council meeting, please fill out a sign-up card and present it to the City Clerk.

Persons with disabilities planning to attend the meeting who need sign language interpretation, assisted listening systems, Braille, taped material, or special transportation, should contact the City Manager's Office at 303 335-4533. A forty-eight-hour notice is requested.

COUNCIL COMMUNICATION

TO: MAYOR AND CITY COUNCIL
FROM: MALCOLM FLEMING, CITY MANAGER
DATE: JANUARY 30, 2012
SUBJECT: APPROVAL OF 4:30 PM START TIME FOR FEBRUARY 7, 2012 AND MARCH 6, 2012 CITY COUNCIL MEETINGS
ORIGINATING DEPARTMENT: CITY MANAGER'S OFFICE

SUMMARY:

The State Republican Caucus is scheduled for February 7 at 7:00 PM and the Democratic Caucus is scheduled for March 6 with a start time of 7:00 PM. To avoid a conflict with the two caucuses staff recommends the City Council meetings begin at 4:30 PM on those two days.

FISCAL IMPACT:

N/A

RECOMMENDATION:

Approve a 4:30 PM start time for the City Council meetings on February 7, 2012 and March 6, 2012.

ATTACHMENT(S):

None

SUBJECT

AGENDA ITEM



**APPROVAL OF 4:30 PM START TIME
FOR FEBRUARY 7, 2012 AND MARCH 6,
2012 CITY COUNCIL MEETINGS**

4A

COUNCIL COMMUNICATION

TO: MAYOR AND CITY COUNCIL
FROM: MALCOLM FLEMING
CITY MANAGER
DATE: JANUARY 30, 2012
SUBJECT: BI-ANNUAL ETHICS TRAINING FOR CITY COUNCIL AND SENIOR
CITY STAFF MEMBERS

ORIGINATING DEPARTMENT: CITY MANAGER'S OFFICE

SUMMARY:

Section 4-16 (a) of the City Charter specifies, among other things, that each Council member shall participate in at least one City-sponsored open government-related seminar, workshop or other program at least once every two years and that the program shall provide information on at least these topics relating to municipal government: the theories and policies underlying and laws relating to ethics, open government, open meetings, open records, and promoting citizen participation in municipal government.

Twice each year the City Attorney provides open government training sessions for Council members, members of the City's boards and commissions and City staff. However, it has been two years since the City last sponsored an open government and ethics seminar specifically for the City Council and senior staff. Special Counsel Scotty Krob has been retained to conduct the seminar. Mr. Krob has been retained by the City specifically for this engagement and has not conducted any other legal work for Louisville.

The training session will focus on the City of Louisville's Code of Ethics. A copy of Article 5, "Open Government and Ethics" of the Louisville Home Rule Charter is attached for your review and reference. There are also provisions of the Colorado State Statutes that address ethics and these will be reviewed, however Louisville's code is more restrictive. An overview of the law and the general principles underlying Louisville's Ethics Code will be presented and hypothetical situations will be discussed for an interactive session.

ATTACHMENTS:

1. Louisville Home Rule Charter, Article 5 Open Government and Ethics
2. City of Louisville Public Involvement Policy



SUBJECT

**BI-ANNUAL ETHICS TRAINING FOR CITY
COUNCIL AND SENIOR CITY STAFF MEMBERS**

AGENDA ITEM

5

**LOUISVILLE HOME RULE CHARTER
ARTICLE 5**

OPEN GOVERNMENT AND ETHICS

Section 5-1. Executive Sessions - General.

(a) It is the policy of the City that the activities of City government should be conducted in public to the greatest extent feasible in order to assure public participation and enhance public accountability.

(b) The City Council may hold an executive session only at a regular or special meeting and for the sole purpose of discussing one (1) or more of the topics set forth in Section 5-2.

(c) No adoption of any proposed policy, position, resolution, rule, regulation, or formal action, and no informal or "straw" vote, shall occur at any executive session.

(d) The Council may, by ordinance, establish other procedures and requirements pertaining to executive sessions.

Section 5-2. Executive Sessions - Authorized Topics.

Topics which may be discussed in an executive session shall be limited to the following:

(a) Matters where the information being discussed is required to be kept confidential by federal or state law;

(b) Personnel matters involving the dismissal, demotion, discipline or review of the performance of employees directly appointed by the Council, consideration of complaints or charges against employees appointed directly by the Council, and other personnel matters only upon request of the City Manager or Mayor for informational purposes only;

(c) Consideration of water rights and real property acquisitions and dispositions by the City, but only as to appraisals and other value estimates and strategy for the acquisition or disposition of such rights or property; and

(d) Consultation with an attorney representing the City with respect to pending litigation. Pending litigation shall include cases in which a lawsuit is actually commenced, and any situation where the person requesting the executive session believes in good faith that a lawsuit may result. The Council may discuss settlement strategies in an executive session.

Section 5-3. Executive Sessions - Procedures.

(a) A request for an executive session may be made only by a member of the Council, the City Attorney or other attorney representing the City, the Municipal Judge, or the City Manager.

(b) The request to go into an executive session shall be made in an open session at a regular or special meeting of the Council. The requesting party shall give as detailed and specific a statement as possible, using his or her best judgment to avoid disclosure of any confidential matters, as to the topic or topics to be discussed and the reasons for requesting an executive session.

(c) The executive session shall only be held upon an affirmative vote of two-thirds (2/3) of the entire Council. A separate vote shall be held on each topic requested to be considered in the executive session. Following the vote and immediately prior to retiring into the executive session, the Mayor shall announce the topic or topics of the executive session.

(d) Immediately upon retiring into the executive session, the requesting party shall explain in detail the nature of the topic and the reasons for requesting the executive session. At this time, those in attendance may discuss the propriety of the executive session.

(e) Before any discussion on the merits of any topic in the executive session, the City Attorney or other attorney representing the City shall give an opinion as to the propriety of the executive session and shall provide guidelines as to the limitations that apply to the discussion.

(f) At any time, any participant may object to the continuation of the executive session. Upon the making of such objection, all discussion shall cease and the Council shall reconvene in an open session for the purpose of determining the propriety of continuing the executive session. An affirmative vote of two-thirds (2/3) of the entire Council shall be required to continue the executive session.

(g) Upon completion of the executive session, the Council shall reconvene in an open session. The person who requested the executive session shall provide as detailed an explanation as allowed by law without disclosing any confidential matter or any matter which would adversely affect the interests of the City, and shall announce what procedure, if any, will follow from the executive session.

(h) Discussions that occur in executive session shall be recorded, and access to the record shall be provided, in the manner and to the extent provided in the State statutes concerning open meetings and the State statutes concerning open records.

Section 5-4. Executive Sessions - State or Federal Law.

To the extent matters addressed in this article are also addressed in any applicable provisions of state or federal law, it is the intent of this Charter that the provisions which best preserve the principles of open government and public participation in the affairs of the City shall prevail.

Section 5-5. Public Records.

(a) The provisions of this Charter relating to open records shall be liberally construed with State open records laws to promote the prompt disclosure of City records to citizens at no cost or no greater than the actual cost to the City. The City shall strictly construe exceptions provided under the State statutes authorizing certain public records to be exempt from disclosure to the public.

(b) City records shall be open for inspection by any person in accordance with this Charter and the State statutes concerning public records and criminal justice records. To the extent State open records laws or City ordinances conflict with the provisions of this Charter, whichever law provides greater access to City records and less expense to the person requesting the records shall control disclosure by the City.

(c) No fee shall be charged for the inspection of City records.

(d) No fee shall be charged for locating City records and making them available for copying, except that the actual labor cost to the City of locating City records may be charged and a reasonable

deposit may be required if the records request seeks voluminous records, or records dating over a period of two or more years, and locating the records has exceeded two hours. The City may adopt laws or regulations, consistent with the open records policy of this Charter, to prevent the abuse by persons of open records requests.

(e) No photocopy charges shall be assessed for the first 25 pages of City records provided to a requester on a single request, or for electronic records. When electronic records responsive to a request are readily available, the City shall offer to make such records available as an alternative to paper copies. Photocopy charges per page shall not be greater than the City's actual cost. Where requested City records are voluminous, nothing shall prohibit the City from arranging for a private copy service to make the photocopies and requiring the requester to reimburse the City for actual costs paid to the private copy service.

(f) Any letter, memo, map, drawing, plan or other document that is not an agenda-related material or contained in a communications file and that is submitted to the City Council or Planning Commission during a meeting shall be immediately made available to the public either by making copies available to the public at the meeting or by displaying the document at the meeting so that the public can view the document. No discussion or consideration of such a document by the public body shall occur unless the document has been made available to the public as provided in this subsection (f). Whenever feasible, the City shall cause such documents to be displayed so that citizens observing Council or Planning Commission meetings on television can view the documents.

(g) The City shall make available to the public, at least on the City's web site and City Library, agenda-related materials for each public body. If agenda-related materials are unavailable in electronic format, each such item shall be described on the web site. Within one year from the effective date of this Section, the City shall have a plan for making available on the web site all agenda-related materials. The City shall invite public participation in creating the plan.

(h) The City shall make available to the public the City Council's and Planning Commission's communications file. (Entire Section Repealed and Reenacted by Initiative Approved 11/02/04).

Section 5-6. Code of Ethics - Declaration of Purpose.

(a) Sections 5-6 through 5-17 shall be known as the Code of Ethics.

(b) Those entrusted with positions in the City government must commit to adhering to the letter and spirit of the Code of Ethics. Only when the people are confident that those in positions of public responsibility are committed to high levels of ethical and moral conduct, will they have faith that their government is acting for the good of the public. This faith in the motives of officers, public body members, and employees is critical for a harmonious and trusting relationship between the City government and the people it serves.

(c) While it is critical that persons holding positions in the City government follow both the letter and spirit of the Code of Ethics, it is equally important that they strive to avoid situations that may create public perceptions of violations of the Code of Ethics. Perceptions of such violations can have the same negative impacts on public trust as actual violations.

(d) The Code of Ethics is intended to foster public trust by defining the parameters of honest government and by prohibiting the use of public office for private gain.

(e) To the extent matters addressed in the Code of Ethics are also addressed in state or federal law, it is the intent of the Code of Ethics that the more restrictive provisions shall control.

Section 5-7. Code of Ethics - Definitions.

For purposes of the Code of Ethics only, the following words shall have the following meanings:

(a) "Business entity" means:

(1) Any corporation whether for profit or nonprofit, governmental entity, business, trust, limited liability company, partnership, association, or other legal entity; and

(2) Any other form of business, sole proprietorship, firm, or venture, carried on for profit.

(b) "Contract" means any arrangement or agreement pursuant to which any material, service, or other thing of value is to be furnished for a valuable consideration or is to be sold or transferred.

(c) "Domestic partnership" means an exclusive committed relationship between two (2) unmarried adult persons who are unrelated by blood, maintain a mutual residence, and share basic living expenses.

(d) "Interest" means a pecuniary, property, or commercial benefit, or any other benefit the primary significance of which is economic gain or the avoidance of economic loss, but does not include:

(1) Any matter in which a similar benefit is conferred to all persons or property similarly situated nor does it include the ownership or control of shares of stock; or

(2) Any beneficial interest in shares of stock, the aggregate amount of which constitutes one (1) percent or less of the shares of stock of the business entity then outstanding.

(e) "Official action" means any legislative, administrative, or quasi-judicial act of any officer, public body member, or employee, or of the City Council or any public body of the City.

(f) "Public body" means any board or commission, or any task force or committee, except any task force or committee for which the City Council determines, in the resolution establishing it, that Sections 5-6 through 5-17, or such portions thereof as selected by the Council, shall not apply because the public interest would be served by the participation of persons who would otherwise have an interest in the matters to be addressed by the task force or committee.

(g) "Relative" means any person related to an officer, public body member, or employee by blood, marriage, or domestic partnership, in any of the following degrees: parents, spouse, children, brothers, sisters, parents-in-law, nephews, nieces, aunts, uncles, first cousins, grandparents, grandchildren, and children-in-law. A separation between spouses shall not be deemed to terminate relationships described herein.

Section 5-8. Code of Ethics - Related persons and entities; duration of interest.

(a) An interest of the following persons and entities shall be deemed to constitute an interest of the officer, public body member, or employee for purposes of the requirements of Section 5-9 and Section 5-10:

- (1) Any relative of the officer, public body member, or employee; or
 - (2) Any business entity in which the officer, public body member, or employee is an officer, director, employee, partner, principal, member, or owner (other than stockholder);
 - (3) Any business entity in which the officer, public body member, or employee owns or controls shares of stock, or any beneficial interest in shares of stock, the aggregate amount of which constitutes more than one (1) percent of the shares of stock of the business entity then outstanding; or
 - (4) Any business entity in which the officer is an officer, director, employee, partner, principal, member, or owner (other than stockholder), where the business entity is seeking to advance its financial benefit through an official action of the City, if the officer would be directly or indirectly involved in making the decision.
- (b) For purposes of the Code of Ethics, participation in a stock mutual fund shall not be considered an interest in any business entity in which the mutual fund owns or controls shares of stock.
- (c) For purposes of the Code of Ethics, the parties to a domestic partnership shall be treated as the equivalent of spouses, and the domestic partnership shall be treated as the equivalent of marriage.
- (d) For purposes of the Code of Ethics, an officer shall be deemed to continue to have an interest in a business entity for a period of one (1) year after the officer's actual interest has ceased.

Section 5-9. Code of Ethics - Standards.

- (a) The following requirements shall constitute reasonable standards and guidelines for the ethical conduct of officers, public body members, and employees.
- (b) No officer, public body member, or employee who has the power or duty to perform, or has any influence over, an official action related to a contract, shall:
- (1) Have or acquire an interest in a contract between a business entity and the City, unless the City's procedures applicable to the solicitation and acceptance of such contract are followed and unless the officer, public body member, or employee has complied with the provisions of Section 5-10;
 - (2) Have an interest in any business entity which is a party to the contract with the City, unless the officer, public body member, or employee has complied with the provisions of Section 5-10;
 - (3) Represent or appear before the City Council, any public body, or any other officer, public body member, or employee, on behalf of any business entity which is a party to the contract with the City;
 - (4) Have solicited or accepted present or future employment with any business entity which is a party to a contract with the City, if the offer or acceptance of such employment is related to or results from any official action performed by the officer, public body member, or employee with regard to the contract; or
 - (5) Solicit, accept, or be granted a present or future gift, favor, discount, service or thing of value from or for any person involved in the contract. Nothing in this paragraph shall prohibit any officer, public body member, or employee from accepting an occasional nonpecuniary gift of fifteen dollars (\$15.00)

or less in value, or from accepting an award, publicly presented, in recognition of public service. However, no officer, public body member, or employee shall accept a nonpecuniary gift of any value if the gift is or may be in any way associated with a contract that is or may be one for which the officer, public body member, or employee has the power or duty to perform an official action.

(c) No officer, public body member, or employee shall be directly responsible for the hiring, appointment, retention, or supervision of, or influence or attempt to influence the hiring, appointment, supervision, or retention by the City of, any relative of the officer, public body member, or employee.

(d) No officer, public body member, or employee shall influence or attempt to influence the compensation, benefits, or other terms and conditions of City office or City employment applicable to a relative of the officer, public body member, or employee.

(e) No relative of an officer, public body member, or employee shall be hired as an employee unless the City's personnel procedures applicable to such employment have been followed.

(f) No officer, public body member, or employee shall use for personal or private gain, or for any other personal or private purposes, any information which is not available to the public and which is obtained by reason of his or her position with the City, or disclose any such information except as required by law or for City purposes.

(g) No employee shall engage in or accept any employment or service, other than employment by the City, if such employment or service reasonably would tend to impair the employee's independence of judgment in the performance of the employee's duties. This restriction shall not be construed to prohibit any other restrictions or prohibitions on outside employment applicable to an employee.

(h) Neither the City Manager, nor any employee who is the head of a City department, shall be appointed to serve as a member of a public body.

(i) No officer, public body member, or employee shall request or direct the use of an employee's working time for the City, and no employee shall use his or her working time for the City, for personal or private purposes.

(j) No officer, public body member, or employee shall request, direct, or permit the personal or private use of any City vehicle or City equipment except in the same manner and under the same circumstances applicable to any person who is not an officer, public body member, or employee, unless such use will substantially benefit the City.

(k) No officer, public body member, or employee shall request, or grant to any person, any special consideration, treatment, or advantage beyond that which is available to every other person in similar circumstances or need.

(l) No officer, public body member, or employee shall, at any time within two (2) years after termination from the City:

(1) Appear on behalf of the officer's, public body member's, or employee's interest, or on behalf of the interest of any other person, before the City Council, any public body, or department of the City, in relation to any matter concerning which the officer, public body member, or employee performed an official act; or

(2) Represent the interest of the officer, public body member, or employee, or of any

other person, in any other matter before the City Council, any public body, or department of the City, without disclosing to the City the officer's, public body member's, or employee's prior relationship to the City and present relationship to the interest.

(m) Except as provided in Subsection (n), no officer, public body member, or employee shall appear before the City Council or any public body on behalf of any business entity.

(n) A member of a public body may appear on behalf of a business entity before the City Council or before a public body other than the public body of which he or she is a member, so long as the appearance does not concern any matter that has or may come before the public body of which he or she is a member.

(o) Nothing in the Code of Ethics shall preclude an officer, public body member, or employee from appearing before the City Council, any public body, or any other officer, public body member, or employee on behalf of any person which is not a business entity, so long as the appearance does not concern the officer's, public body member's, or employee's interest.

(p) No officer or public body member shall offer or promise to give his or her vote or influence in favor of or against any proposed official action in consideration or upon condition that any other officer, public body member, will promise or assent to give his or her vote or influence in favor of or against any other proposed official action.

(q) No officer shall become a City employee at any time during the term of office, or for two (2) years after leaving office.

(r) No officer shall acquire or seek to acquire any real estate or interest therein if the officer knows, or reasonably should know, that the Council is evaluating, proposing, or pursuing the acquisition of such real estate or interest therein. The officer's knowledge shall be presumed if the minutes or other record of any Council meeting or study session reflect any discussion of the same, or if the officer was present at any executive session at which the same was discussed. The prohibitions of this subsection shall continue to apply until after the Council has abandoned any effort to acquire such real estate or interest therein, and such abandonment has been reflected in the minutes or other record of a Council meeting.

Section 5-10. Code of Ethics - Disclosure of Interest; Non-Participation in Discussion or Action.

(a) The procedures of this section shall be followed by:

(1) Each officer who has an interest in, or whose interest would be affected by, any proposed official action before the City Council; and

(2) Each public body member who has an interest in, or whose interest would be affected by, any proposed official action before the public body of which the person is a member.

(b) Each officer or public body member, when required to follow this section, shall:

(1) Immediately and publicly disclose the nature and extent of the interest;

(2) Not participate in any discussion or decision concerning the proposed action; and

(3) Leave the room where the discussion or decision is taking place during the time the proposed action is being discussed and the decision is being made.

(c) With respect to any official action in which an officer, public body member, or employee has an interest, the officer, public body member, or employee shall not:

(1) Participate in any discussion with the City Council, any public body, or any other employee, concerning such an action to be taken by the City Council, the public body, or the other employee; or

(2) Attempt to influence publicly or privately, the City Council, any public body, or any other employee, in connection with an official action described in Paragraph (1).

(d) With respect to any official action that would affect the interest of a competitor of a business entity in which an officer, public body member, or employee has an interest, the officer, public body member, or employee shall not:

(1) Participate in any discussion with the City Council, any public body, or any other employee, concerning such an action to be taken by the City Council, the public body, or the other employee; or

(2) Attempt to influence publicly or privately, the City Council, any public body, or any other employee, in connection with an official action described in Paragraph (1).

Section 5-11. Code of Ethics - Filing of Financial Disclosure Statement.

(a) Within three (3) working days after a person has filed a nomination petition or write-in affidavit of intent for the office of Mayor or Councilmember, and within five (5) working days after a person has been appointed to fill a vacancy in such office, the person shall complete, sign, and file with the City Clerk a disclosure statement that contains:

(1) The person's employer and occupation and the nature of any income in excess of one thousand dollars (\$1,000.00) per year per source, including without limitation, capital gains whether or not taxable, dividends, interest, wages, salaries, rents, and profits;

(2) The name, location, and nature of activities of any business entity with holdings of real or personal property or with business dealings in Boulder County, in which the person has any interest, and the nature of the interest;

(3) The location of any real property within Boulder County in which the person has an interest or, if the person has a controlling interest in an entity or enterprise disclosed pursuant to Paragraph (2), in which the controlled entity or enterprise has any interest and the nature of such interest;

(4) A sworn or verified statement signed by the person, under penalty of perjury, stating that to the best of the person's knowledge, information, and belief, the person has provided, accurately and completely, all of the information required by the disclosure form in compliance with the Code of Ethics. The statement shall contain:

(A) An acknowledgment that, for the purposes of Sections 5-9 and 5-10, the

person is deemed to have an interest in his or her own financial affairs, and in that of the person's spouse and other relatives as specified in the Code of Ethics; and

(B) An acknowledgment that, for the purposes of Sections 5-9 and 5-10, the person understands that he or she must disclose such an interest pursuant to Section 5-10 and comply with the non-participation provisions thereof, and that it is a violation of the Code of Ethics to fail to file the statement within the time required herein; and

(C) Such additional information as the person making the disclosure desires.

(b) Except as specifically provided herein, the form and content of the disclosure statement referred to in Subsection (a) shall be established by resolution of the City Council.

(c) Notwithstanding any other provision of this section, no candidate, officer, or public body member shall be required to disclose any confidential relationship protected by law.

(d) By no later than September 10 of each year, each officer shall file an amended disclosure statement with the City Clerk, or notify the City Clerk in writing that the officer has no change of financial condition regarding the disclosed items since the previously filed disclosure statement.

Section 5-12. Code of Ethics - Enforcement.

(a) The provisions of Sections 5-9 through 5-11 shall be enforced as follows:

(1) The City Prosecutor shall have the primary responsibility for administration of said provisions.

(2) Any person who believes that an officer, public body member, or employee has violated any of said provisions and wishes to initiate proceedings on such alleged violations shall file a written complaint with the City Prosecutor. The complaint shall state in detail the facts of the alleged violation, shall specify the section or sections of the Code of Ethics alleged to have been violated, and shall contain a sworn or verified statement signed by the complainant and stating under penalty of perjury that the information in the complaint is true and accurate, and that the complaint is filed in good faith and not out of malice or any other improper motive or purpose. Any complaint which does not contain such a signed statement shall be returned forthwith to the complainant without action.

(3) If the complaint is made against an officer or public body member, within ten (10) days after receipt of the complaint the City Prosecutor shall forward a copy of the complaint to the officer or public body member against whom the complaint is made, and to an advisory judge referred to in Section 5-13. The City Prosecutor shall request the advisory judge to appoint a qualified disinterested attorney to serve as special prosecutor. If, within ten (10) days after the request, the advisory judge has not appointed a special prosecutor, the City's municipal judge shall appoint a qualified disinterested attorney to serve as special prosecutor. The reasonable expenses and fees of an advisory judge making such an appointment and of the attorney serving as special prosecutor shall be paid by the City. The attorney recommended or appointed pursuant to this paragraph shall serve as special prosecutor for purposes of investigation and action on the complaint, and shall take such actions concerning the complaint as are consistent with the Code of Ethics, the Colorado municipal court rules of procedure, and the prosecutor's ethical responsibilities. Before completing the investigation, the special prosecutor shall provide the officer or public body member against whom the complaint is made an opportunity to provide information concerning the complaint.

(4) If the complaint is against an employee, the City Prosecutor shall investigate the

complaint and shall take such actions concerning the complaint as are consistent with the Code of Ethics, the Colorado municipal court rules of procedure, and the prosecutor's ethical responsibilities. Within ten (10) days after receipt of the complaint the City Prosecutor shall forward a copy of the complaint to the employee against whom the complaint is made and, before completing the investigation, shall provide the employee an opportunity to provide information concerning the complaint.

(b) A person commits false reporting of a complaint under this section if:

(1) The person makes a complaint of a violation under Sections 5-9 through 5-11 or knowingly causes the transmission of a complaint to the City Prosecutor of such a violation when the person knows that the violation did not occur; or

(2) The person makes a complaint or knowingly causes the transmission of a complaint to the City Prosecutor pretending to furnish information relating to a violation of Sections 5-9 through 5-11 when the person knows that he or she has no such information or knows that the information is false.

(c) A person who is convicted of false reporting of a complaint under this section shall be punished as provided in Section 16-7 of this Charter.

Section 5-13. Code of Ethics - Advisory Opinions.

(a) The municipal judge shall maintain the consent of one (1) or more judges of municipalities other than the City, to provide advisory opinions with respect to the applicability of Sections 5-9 through 5-11. The names of such advisory judges shall be provided to the City Council, the City Manager, and the City Attorney. The reasonable expenses and fees of an advisory judge providing such an opinion shall be paid by the City.

(b) If any officer, public body member, or employee is uncertain as to the applicability of Sections 5-9 through 5-11 to a particular situation, or as to the definition of terms used in said sections, the officer, public body member, or employee may apply in writing to the City Council, Mayor, or City Manager for an opinion from an advisory judge pursuant to this section, and the City Council, Mayor, or City Manager may submit an application to the advisory judge for procurement of an opinion. Any officer or public body member may apply directly to an advisory judge for an opinion. The application shall state in detail the applicable facts and the section or sections of the Code of Ethics concerning which the opinion is requested.

(c) Any person who requests and acts in accordance with an advisory opinion issued pursuant to this section shall not be subject to any penalties for such action under the Code of Ethics, unless material facts were omitted or misstated in the request for the advisory opinion.

(d) An opinion rendered by an advisory judge pursuant to this section shall be disclosed to the public by posting, unless the advisory judge who issued the opinion determines it in the best interest of the City to delay such posting, in which case the opinion shall be posted as soon as the judge determines that the best interest of the City will no longer be harmed by public disclosure of the opinion.

Section 5-14. Code of Ethics - Violations - Penalties.

An officer, public body member, or employee who is convicted of a violation of any of the provisions of Sections 5-9 through 5-11 shall be punished as provided in Section 16-7 of this Charter.

Section 5-15. Code of Ethics - Violations - Voiding of Contract.

Any contract which was the subject of any official action of the City in which there was or is an interest prohibited by the Code of Ethics shall be voidable at the option of the City, if legally permitted. Where the City Attorney determines that the public interest may best be served by not voiding such contract, it may be enforced and an action or proceeding may be brought against any officer, public body member, or employee in violation of the provisions of the Code of Ethics for damages in an amount not to exceed twice the damages suffered by the City or twice the profit or gain realized by the officer, public body member, or employee, whichever is greater.

Section 5-16. Code of Ethics - Violations - Injunction.

The City Prosecutor shall have the power, where a violation of the provisions of the Code of Ethics is threatened or has occurred, to bring a civil action or proceeding at law or in equity for a judgment enjoining any violation of the provisions of the Code of Ethics.

Section 5-17. Code of Ethics - Distribution.

The City Clerk shall cause a copy of the Code of Ethics, and any forms required for compliance with the Code of Ethics, to be distributed to each officer, public body member, and employee of the City within twenty (20) days after the adoption of the Charter, and to each officer, public body member, and employee elected, appointed, or hired thereafter, before entering into any duties with the City, and to each candidate for elective office at the time the candidate obtains a nomination petition. In addition, the City Clerk shall cause a copy of any amendment to the Code of Ethics to be distributed to each officer, public body member, and employee of the City within twenty (20) days after the enactment of the amendment.

Section 5-18. Notices and Agendas.

(a) Any meeting of a public body shall be preceded by the posting of a notice of and agenda for the meeting. Except as provided in Section 4-2, the notice and agenda shall be posted, and published on the City's website, no less than 72 hours before the meeting.

(b) The agenda for any non-emergency meeting of a public body shall contain an itemized list of all subjects on which substantive discussions are reasonably expected or which may be the subject of formal action.

(c) No public body shall engage in substantive discussions relating to, or take formal action on, any subject at a non-emergency meeting when that subject was not listed in the agenda for that meeting and is not substantially related to any subject listed in the agenda, provided, however, that the City Council may engage in substantive discussions and take formal action on a matter of public business not on the agenda, upon a finding by the presiding officer that such discussions or action will promote the general welfare of the City, it is important that the matter be acted upon before the next formal City Council meeting, and it would be injurious to the City to await action on the matter until the next formal City Council meeting.

(d) For purposes of this Section, a subject is not substantially related to a subject listed in the agenda when a person reading the agenda before the meeting would not have reasonably expected that the subject would be substantively discussed or formally acted upon at the meeting.

(e) At any non-emergency meeting of a public body, any member of the public who in good faith believes that a meeting is proceeding in violation of subsection (c) of this Section shall be entitled to submit a brief written objection to the official presiding over the meeting; the written objection shall specify the ground for the objection. The presiding official shall exercise his or her discretion in determining whether the meeting is in compliance with this Section, and shall conduct the meeting in accordance with that determination. The written objection shall be retained permanently in the records of the City. The City may adopt laws or regulations, consistent with this Section, to prevent the abuse of this subsection (e). (Entire Section Added by Initiative Approved 11/02/04).

DEFINITIONS RELEVANT TO ARTICLE 5

(From Charter Section 1-1)

(a) "Board or commission" means each board and commission established by or pursuant to Section 10-1.

(c) "Council" or "City Council" means the body constituting the City Council of the City.

(d) "Councilmember" means each member of the City Council except the Mayor.

(e) "Emergency" means a matter which could not have been reasonably anticipated or foreseen, and on which immediate action is genuinely and urgently necessary for the preservation of the public health, safety, or welfare.

(f) "Employee," "City employee," or "employee of the City" means each compensated person in the service of the City who is designated as an employee in the personnel rules and regulations of the City.

(g) "Entire Council" means all of the seven (7) members of the City Council provided for in Section 3-1.

(k) "Member of the Council" means the Mayor and each Councilmember.

(m) "Officer" means the Mayor and each Councilmember.

(o) "Posting" or "posted" means placing, in areas accessible by the public, at City Hall, the City Library, the Louisville Recreation Center, and one additional location that is open to the public during hours different from the regular business hours of City Hall. (Repealed and Reenacted by Initiative Approved 11/02/04).

(p) "Publication" or "publish" means:

(1) Printing in a newspaper, and placement of a copy in the City Library; or

(2) Placement on the City's internet website or other technologies adopted by the City, and placement of a copy in the City Library; or

(3) By posting, if an emergency exists or when no such newspaper is available. Anything so posted shall subsequently be published as provided in Paragraph (1) or (2).

(v) "Task force or committee" means each task force or committee established pursuant to Section 10-2(f).

(x) "Agenda-related materials" means the agenda, all reports, correspondence and any other document forwarded to a public body that provide background information or recommendations concerning the subject matter of any agenda item. (Added by Initiative Approved 11/02/04).

(y) "Communications file" means a paper or digital file, organized chronologically and accessible to any person during normal business hours, containing a copy of any letter, memorandum or other public record that the clerk or secretary of the City Council or Planning Commission has distributed to, or sent on behalf of, the Mayor, the chairperson of the Commission, or a quorum of the Council or Commission concerning a matter that has been placed on the Council's or Commission's agenda within the previous thirty days or is scheduled or requested to be placed on the agenda within the next thirty days. The file may, but need not contain, voluminous reports, studies or analyses not created by City officers or employees provided that their omission is noted in the file. Excepted from the file shall be commercial solicitations, agenda-related material, and records excepted from disclosure to the public. (Added by Initiative Approved 11/02/04).

(z) "Public body" means those City public bodies referenced in Section 5-7(f) and, for purposes of Article 4, Section 5-5 and Section 5-18, also includes the City Council. (Added by Initiative Approved 11/02/04, Amended by Referred Measure Approved 11/03/09).

(aa) "Substantive discussions" means debate, deliberation or other discussion about the merits, benefits, advantages or disadvantages of any proposed or possible resolution of any issue that will be or may be the subject of formal action by a public body. (Added by Initiative Approved 11/02/04).

City of Louisville Public Involvement Policy

Public participation is an essential element of the City's representative form of government. To promote effective public participation City officials, advisory board members, staff and participants should all observe the following guiding principles, roles and responsibilities:

Guiding principles for public involvement

- **Inclusive not Exclusive** - Everyone's participation is welcome. Anyone with a known interest in the issue will be identified, invited and encouraged to be involved early in the process.
- **Voluntary Participation** - The process will seek the support of those participants willing to invest the time necessary to make it work.
- **Purpose Driven** - The process will be clearly linked to when and how decisions are made. These linkages will be communicated to participants.
- **Time, Financial and Legal Constraints** - The process will operate within an appropriate time frame and budget and observe existing legal and regulatory requirements.
- **Communication** - The process and its progress will be communicated to participants and the community at-large using appropriate methods and technologies.
- **Adaptability** - The process will be adaptable so that the level of public involvement is reflective of the magnitude of the issue and the needs of the participants.
- **Access to Information** - The process will provide participants with timely access to all relevant information in an understandable and user-friendly way. Education and training requirements will be considered.
- **Access to Decision Making** - The process will give participants the opportunity to influence decision making.
- **Respect for Diverse Interests** - The process will foster respect for the diverse values, interests and knowledge of those involved.
- **Accountability** - The process will reflect that participants are accountable to both their constituents and to the success of the process.
- **Evaluation** - The success and results of the process will be measured and evaluated.

Roles and Responsibilities

Council

City Council is ultimately responsible to all the citizens of Louisville and must weigh each of its decisions accordingly. Councilors are responsible to their local constituents under the ward system; however they must carefully consider the concerns expressed by all parties. Council must ultimately meet the needs of the entire community—including current and future generations—and act in the best interests of the City as a whole.

During its review and decision-making process, Council has an obligation to recognize the efforts and activities that have preceded its deliberations. Council should have regard for the public involvement processes that have been completed in support or opposition of projects.

City Staff and Advisory Boards

The City should be designed and run to meet the needs and priorities of its citizens. Staff and advisory boards must ensure that the Guiding Principles direct their work. In addition to the responsibilities established by the Guiding Principles, staff and advisory boards are responsible for:

- ensuring that decisions and recommendations reflect the needs and desires of the community as a whole;
- pursuing public involvement with a positive spirit because it helps clarify those needs and desires and also adds value to projects;
- in all public involvement activities fostering long-term relationships based on respect and trust;
- encouraging positive working partnerships;
- ensuring that no participant or group is marginalized or ignored;
- drawing out the silent majority, the voiceless and the disempowered; and
- being familiar with a variety of public involvement techniques and the strengths and weaknesses of various approaches.

All Participants (Proponents, Opponents, Public, Council, Advisory Boards and Staff)

The public is also accountable for the public involvement process and for the results it produces. All parties (including Council, advisory boards, staff, proponents, opponents and the public) are responsible for:

- working within the process in a cooperative and civil manner;
- focusing on real issues and not on furthering personal agendas;
- balancing personal concerns with the needs of the community as a whole;
- having realistic expectations;
- participating openly, honestly and constructively, offering ideas, suggestions and alternatives;
- listening carefully and actively consider everyone's perspectives;
- identifying their concerns and issues early in the process;
- providing their names and contact information if they want direct feedback;
- remembering that no single voice is more important than all others, and that there are diverse opinions to be considered;
- making every effort to work within the project schedule and if this is not possible, discussing this with the proponent without delay;
- recognizing that process schedules may be constrained by external factors such as limited funding, broader project schedules or legislative requirements;
- accepting some responsibility for keeping themselves aware of current issues, making others aware of project activities and soliciting their involvement and input; and
- considering that the quality of the outcome and how that outcome is achieved are both important.