



**BOARDS AND COMMISSION
BEST PRACTICES HANDBOOK**

Adopted November 2020

Table of Contents

- PREVIOUS POLICES..... 2
- ROLE OF COMMISSIONS 2
- COMMISSION POSITIONS 2
- COMMISSION RESPONSIBILITIES 3
- RULES AND PROCEDURES FOR BOARDS AND COMMISSIONS..... 3
- OPEN MEETINGS ACT..... 4
- PARLIAMENTARY PROCEDURE..... 7
- WORKING SUCCESSFULLY TOGETHER..... 9
- PUBLIC PARTICIPATION..... 10
- CHALLENGING MEETINGS 10
- THE RELATIONSHIP OF COMMISSION WITH CITY ADMINISTRATOR 11
- THE RELATIONSHIP OF COMMISSIONS WITH CITY COUNCIL..... 11
- THE RELATIONSHIP WITH CITY STAFF 11
- THE CITY CLERK..... 12
- ROLE OF THE CITY ATTORNEY 12
- ROLE OF THE CHAIRPERSON 13
- MEDIA RELATIONS..... 13
- FREEDOM OF INFORMATION ACT (FOIA)14
- CITY CODE OF CONDUCT POLICY 18
- GENERAL LIABILITY..... 20
- SIGNATURE PAGE..... 51

Note: For the purpose of simplicity in this document; the Durand City Council, all boards, committees, task forces, and/or commissions will simply be referred to as “commissions.” Board and commission members will be referred to as “commissioners” except where the Durand City Council and its councilmembers are specifically referred to otherwise.

Helpful Websites

City of Durand: www.durandmi.com

Durand, Michigan Code of Ordinances: www.durandmi.com/information/city_ordinances/index.php

Previous Policies

Unless otherwise required by local, State or Federal law, this policy supersedes and replaces all previously approved policies, bylaws, articles, or other formation documents, save the City Charter or established by local, state or federal laws or regulations.

Roles of Commissions

Commissions function in two distinct capacities in the public policy process in Durand: Advisory and Administrative. Some will serve in both capacities.

The Advisory Role

Each Advisory Commission makes recommendations to the City Council based on the scope of its particular service area. Typically, Advisory Commissions have a work agenda in place for a calendar year during which it undertakes projects, deliberates on issues and hosts special events.

The City Council is responsible for making the final decisions on most issues or topics, but it will look to commissions for advice, background information and analysis. As the elected body, the City Council has discretion to accept advice in full, in part or not at all.

The Administrative Role

Certain commissions have an additional administrative role. This means that they are permitted or required by charter, statute or ordinance to conduct formal reviews and issue administrative decisions. It is vital that rules established by law are followed by commissioners and that every administrative decision is supported by facts placed on the record. This typically includes decisions made by the Planning Commission and the Zoning Board of Appeals, for example.

An administrative decision shall not be based on the number of people who show up to speak for or against, rather, it shall be based on applicable law and presented facts or testimony. In fact, courts will overturn decisions that lack a factual basis and decision makers may even be liable if determinations are not based on what is permissible under the law. In some cases, a decision may be appealed to the City Council; in others, an appeal will be made to Circuit Court.

Commission Positions

Commissions elect their chairperson and secretary annually. A commission may also appoint sub-committees and members to chair them as needed. The staff liaison or their designee is responsible for all record keeping and financial reporting.

Commission Responsibilities

Members of commissions have the following responsibilities:

- To attend training with the City Attorney within the first 90-days of appointment;
- To adhere to and abide by the City's Code of Ethics and Conflict of Interest policies;
- To attend all regularly scheduled meetings ;
- To use parliamentary procedure to conduct and participate in meetings;
- To hold public hearings when called for in the commission's enabling legislation, or when otherwise prudent to provide the opportunity for public comment;
- To make recommendations to City Council as required by law or upon request;
- To refrain from any act that constitutes a conflict of interest;
- To follow the operating rules the board or commission has established;
- To review all relevant materials and come to the meetings prepared to discuss the issues;
- To work cooperatively with other commissions when there are areas of common interest or overlap in responsibilities;
- To abide by the provisions of the Open Meetings Act.

Rules and Procedures

All City of Durand residents are eligible to serve on any number of commissions at one time except that no more than two members of the Durand City Council shall serve on any one commission outside of council. The application is available at https://www.durandmi.com/city_government/board_vacancies.php or by calling (989)288-3113.

Appointments are made by the Mayor and vacancies can be filled at any time of the year, should they occur. A majority vote of the City Council is required to confirm an appointment. Commissioners are appointed to three-year terms.

If a commissioner finds it difficult to meet the expectations of their assignment he or she can resign at any time. A resignation does not, however, prohibit an individual from being appointed again at a future date. Commissioners must also notify the staff liaison if they are unable to attend a meeting. This is critically important when staff is determining if there will be a quorum of the members as required to conduct business.

A quorum is determined as follows: a majority of the members of each commission appointed and serving shall constitute a quorum for the transaction of business. Any member who has been granted a leave of absence, whose resignation has been accepted by City Council, who has been removed by the appointing authority or automatically removed for nonattendance, shall not be deemed to be serving for purposes of determining a quorum. A commissioner fulfilling the remaining time on an unexpired term is still eligible for appointment to a full term on the same commission.

Open Meetings Act

Basic Intent

The basic intent of the Michigan Open Meetings Act (MCL 15.261 et seq.) is to strengthen the right of all Michigan citizens to know what goes on in government by requiring public bodies to conduct nearly all business at open meetings. Members of public bodies need to closely watch their obligations under Michigan's Open Meetings Act (OMA); Act 276 of 1976.

Key Definitions

- “Public body” means any state or local legislative or governing body, including a board, commission, committee, subcommittee, authority or council, which is empowered by state constitution, statute, charter, ordinance, resolution or rule to exercise governmental or proprietary authority or perform a governmental or proprietary function, or a lessee thereof performing an essential public purpose and function pursuant to the lease agreement.
- “Meeting” means the convening of a public body at which a quorum is present for the purpose of deliberating toward or rendering a decision on a public policy.
- “Closed session” means a meeting or part of a meeting of a public body which is closed to the public.
- “Decision” means a determination, action, vote or disposition upon a motion, proposal, recommendation, resolution, order, ordinance, bill or measure on which a vote by members of a public body is required and by which a public body effectuates or formulates public policy.

Coverage

The OMA broadly covers a large group of public bodies, including local legislative or governing bodies, boards, commissions, committees, subcommittees, authorities, or councils that are empowered to perform governmental functions.

The law also applies to:

- local and intermediate school districts;
- governing boards of community colleges, state colleges and universities;
- special boards and commissions created by law (i.e., public hospital authorities, road commissions, health boards, district library boards and zoning boards, etc.).

The act does not apply to a meeting of a public body which is a social or chance gathering not designed to avoid the law.

The following are some, but not all, examples of OMA issues that frequently challenge public bodies:

- With few exceptions, public body deliberations or decisions must occur in meetings open to the public (MCL 15.263). An actual off-the-record vote is not required in order to violate the Act.
- Private discussions or decisions among a quorum of a public body, or a series of sub-quorum discussions or decisions, will violate the OMA.
- Off-record consensus building efforts equivalent to deliberations or decision-making are illegal. For example, use of telephone calls, sub-quorum meetings or e-mail exchanges (known as "round-the-horn" decision-making) are illegal.

- A quorum of a public body may attend the same civic, social or political gathering, provided that the members do not join to consider or decide on a public business matter.
- Several public bodies have come under the scrutiny of the media or prosecutors for OMA violations due to e-mail communications among members of public bodies using public or private e-mail accounts.
- The use of City or private e-mail accounts to deliberate/decide on official business is wrongful and raises the possibility that a user's private e-mail account may be subject to inspection and disclosure for OMA compliance, as well as Michigan Freedom of Information Act requests.
- One member can canvass other board or commission members to see where votes are coming out on a specific issue, but this process can easily slide into an illegal "round-robin" voting.
- Members often have legitimate concerns about business operations that need to be communicated. To avoid OMA problems, members asking questions or making recommendations by e-mail or other communications shall direct these communications to the body's staff liaison, with no courtesy copies to other members. The head of the public body can then present these questions and recommendations to the public body for discussion in open or appropriate closed sessions.
- The reasons for closed meetings are very few and narrow, accordingly:
 - "Personnel issues" or "private matters" provide no basis. A specific employment action is needed and the affected employee must ask for the closed meeting.
 - Discussions or resolution of legal demands or threatened litigation do not authorize a closed session, but consideration of a related attorney-client communication may.
 - During the closed session, members must not stray into matters outside of the purpose for calling the closed session.

Notification of Meetings

- The law states that within **ten days** of the first meeting of a public body in each calendar or fiscal year, the body must publicly post a list stating the dates, times and places of all its regular meetings at its principal office.
- For the purposes of all commissions, all postings are made at City Hall by the City Clerk and at the regular location of the meeting. Every attempt is also made to post meetings online via the City of Durand website.
- If there is a change in schedule, within three days of the meeting in which the change is made, the public body must post a notice stating the new dates, times and places of regular meetings.

Special and Irregular Meetings

- For special and irregular meetings, public bodies must post a notice indicating the date, time and place **at least 18 hours** before the meetings.
- Note: A regular meeting of a public body, which is recessed for more than 36 hours, can only be reconvened if a notice is posted 18 hours in advance.

Closed Meetings

The law provides for closed meetings in a few specified circumstances. In order for a public body to hold a closed meeting, two-thirds of its members must vote affirmatively in a roll call. Also, the purpose for which the closed meeting is being called must be stated in the meeting when the roll call is taken.

Closed meetings may be called without a two-thirds vote for the following reasons:

- considering the dismissal, suspension or disciplining of, or to hear complaints or charges brought against a public officer, employee, staff member or individual when the person requests a closed hearing;
- considering the dismissal, suspension or disciplining of a student of a public school when the student or guardian requests a closed hearing;
- strategy and negotiation sessions necessary in reaching a collective bargaining agreement when either party requests a closed hearing; and
- partisan caucuses of the state legislature. Other reasons a public body may hold a closed meeting, but which in order to call for the closed meeting require a two-thirds vote of all members elected or appointed and serving:
 - to consider the purchase or lease of real property;
 - to consult with its attorney about trial or settlement strategy in pending litigation, but only when an open meeting would have detrimental financial effect on the public body's position;
 - to review the contents of an application for employment or appointment to a public office when the candidate requests the application to remain confidential. However, all interviews by a public body for employment or appointment to a public office have to be conducted in an open meeting except meetings held in the search process for a president of an institute of higher education under section 4, 5 or 6 of article VIII of the state constitution of 1963 that meet all the requirements of Section 8 (j) of the act; and
- to consider material exempt from discussion or disclosure by state or federal statute.

Explanation of Minutes in Closed Meeting

Minutes of closed meetings must also be taken although they are not available for public inspection and would only be disclosed if required by a civil action. These minutes may be destroyed one year and one day after approval of the minutes of the regular meeting at which the closed session was approved. If an audio-tape is made of a closed meeting, it must also be retained for one year and one day.

Enforcement of the Act

Under the law, the attorney general, prosecutor or any citizen can challenge in circuit court the validity of a decision of a public body to meet in closed session made in violation of its provisions. If the body is determined to be in violation of the law and makes a decision, that decision can be invalidated by the court. In any case where an action has been initiated to invalidate a decision of a public body, the public body may reenact the disputed decision in conformity with the act. A decision reenacted in this manner shall be effective from the date of reenactment and will not be declared invalid by reason of a deficiency in the procedure used for its initial enactment.

Penalties Under the Act

- The first time a public official intentionally breaks this law, he or she can be punished by a maximum fine of \$1,000.

- For a second offense within the same term of office, the official can be fined up to \$2,000, jailed for a maximum of one year or both.
- A public official who intentionally violates the act is also personally liable for actual and exemplary damages up to \$500, plus court costs and attorney fees.

PUBLICATION: Freedom of Information and Open Meetings
<http://www.legislature.mi.gov/Publications/OpenMtgsFreedom.pdf>

PUBLICATION: Citizens Guide to State Government
<http://www.legislature.mi.gov/Publications/CitizensGuide.pdf>

Parliamentary Procedure

All commissions are required to use parliamentary procedures to conduct their meetings and periodically, the City offers a workshop in parliamentary procedures that is made available to all commissioners and city staff who wish to participate. Commissioners and staff are also encouraged to familiarize themselves with Robert’s Rules of Order Newly Revised. This is of particular importance for chairpersons in their capacity as presiding officer tasked with conducting fair and efficient meetings.

ROBERT’S RULES OF ORDER: [HTTP://WWW.RULESONLINE.COM/INDEX.HTML](http://WWW.RULESONLINE.COM/INDEX.HTML)

Minutes (MCL 15.269 Sec.9)

- (1) Each public body shall keep minutes of each meeting showing the date, time, place, members present, members absent, any decisions made at a meeting open to the public, and the purpose or purposes for which a closed session is held. The minutes shall include all votes taken at the meeting. The public body shall make any corrections in the minutes at the next meeting after the meeting to which the minutes refer. The public body shall make corrected minutes available at or before the next subsequent meeting after correction. The corrected minutes shall show both the original entry and the correction.
- (2) Except for minutes taken during a closed session, all minutes are public records open to public inspection, and a public body shall make the minutes available at the address designated on posted public notices pursuant to [the OMA \(PA 276\)](#). The public body shall make copies of the minutes available to the public at the reasonable estimated cost for printing and copying.
- (3) A public body shall make proposed minutes available for public inspection within 8 business days after the meeting to which the minutes refer. The public body shall make approved minutes available for public inspection within 5 business days after the meeting at which the minutes are approved by the public body.
- (4) A public body shall not include in or with its minutes any personally identifiable information that, if released, would prevent the public body from complying with section 444 of subpart 4 of part C of the general education provisions act, 20 USC 1232g, commonly referred to as the family educational rights and privacy act of 1974.

Minutes Guidance:

Meetings: Agenda and Minutes A handbook for local officials
 Wells F. Cook, Ph.D., PRP, Central Michigan University
 Published by the Michigan Municipal League
<http://www.mml.org/pdf/meetings/book.pdf>

Making a Motion

- A motion cannot be discussed unless it is seconded.
- Unless a motion is seconded, it must not be discussed.
- Obtain the floor (the right to speak) by being the first to raise your hand when the person speaking has finished. Must be recognized by the Chair before speaking!
- Debate cannot begin until the Chair has stated the motion or resolution. If there is no debate, then the Chair calls the question. (Asking for a vote)
- Before the motion is stated by the Chair (the question) members may suggest modification of the motion; the mover can modify as he pleases, or even withdraw the motion without consent of the seconder; if mover modifies, the seconder can withdraw the second!
- The “immediate pending question” is the last question stated by the Chair Motion/Resolution – Amendment – Motion to Postpone
- The member moving the “immediately pending question” is entitled to preference to the floor!
- No member can speak twice to the same issue until everyone else wishing to speak has spoken to it once!
- All remarks must be directed to the Chair. Remarks must be courteous in language and deportment – avoid all personalities, never allude to others by name or to motives!
- The agenda and all committee reports are merely recommendations! When presented to the assembly and the question is stated, debate begins and changes occur!

Amend a Motion

An amendment to a motion is really a new motion made to change or modify the previous motion which is under consideration.

An amendment may do one of four things:

1. Add or insert a certain word or words, or a sentence, to the motion under consideration.
2. Strike out a certain word or words, or a sentence, in the motion under consideration.
3. Substitute another motion for the one being considered.
4. Substitute words or replace wording under consideration. An amendment, like the principal motion, must be seconded. It is also debatable, and may again be amended.

The proper form for making an amendment is: “I move to amend the motion to read” or “I move to amend the motion by”

The amendment to a motion, if seconded, must be voted upon before the original motion. If the amendment to the motion is carried, the original motion, must be voted upon as amended. On the other hand, if the amendment is lost, the motion is voted upon as originally stated. In case of an amendment to an amendment, the last amendment is always voted upon first. If it is carried, the preceding amendment is then voted upon as amended.

Four Ways of Voting

When the discussion is over, the chairman repeats the motion. He then puts it to a vote. The following four methods are commonly used:

1) Voting by Acclamation

“Aye” or “Nay.” This is probably the most commonly used method of voting. However, it has both advantages and disadvantages:

- Advantages: It is the quickest method. For unimportant questions, or where there is no doubt about the wishes of the majority, it is very satisfactory.
- Disadvantages: The minority group may produce enough sound to “drown out” the majority, the chairman has an unusual opportunity to favor the outcome if the vote is close, the side voting first (which must always be the affirmative) has a decided psychological advantage.

2) Voting by Standing or Raising the Hand

This method overcomes the first two disadvantages of voting by acclamation (“Aye” or “Nay”). The majority and the minority are clearly identified—from the floor and from the chair. This method is advisable for all important matters, where the two following methods are not used, and where the result of the voter would otherwise be uncertain.

3) Voting by Roll Call

Roll call gives every voter a chance to register his choice. It is used for matters of importance, each person’s vote usually being made a matter of record. Legislative bodies, therefore, use it frequently.

4) Voting by Ballot

This takes more time. Slips of paper are first passed around to the voters who write the name of the person they prefer, or “yes” or “no” on their slip. To make voting by ballot more speedy, tellers may be selected to collect and count ballots. Voting by ballot has these advantages: first, it is secret. No one person need influence the vote of another; second, it is accurate. Every person has a chance to vote and get a fair decision. Thirdly, the decision is not known until all ballots are cast.

Working Successfully Together

Locally, we routinely choose to appoint individuals to a commission whose views, backgrounds, opinions and values vary widely from one another. The purpose of diverse representation on city commissions is to ensure that the entire community has a voice in decision-making. Sometimes these differences cause conflict during the process of deliberation and finalizing recommendations. Nonetheless, in order to be an effective commissioner, each individual must:

- Work within a team framework of compromise and exchange;
- Separate people from the issues when conflict arises;
- Focus on mutual interests and shared goals;
- Look for compromises and work to understand diverse perspectives;
- Examine one’s own approach to dealing with conflict and be open about concerns where there is room for compromise;
- Strive to problem-solve based on collaboration rather than simply making a decision.

Most issues will be resolved and decisions made through the voting and deliberation processes. It is important to recognize that as a commissioner, you have done your job by thoroughly examining the pros and cons of each situation. Once an issue is decided, it is equally important to accept the wishes of the majority and move on to the next issue.

Public Participation at Commission Meetings

Board and commission meetings are open to the public. As the presiding member, the chairperson is responsible for calling the meeting to order on time and adjourning at a reasonable hour.

If meetings are canceled or rescheduled, notification must be posted 24 hours in advance so that those individuals wishing to attend and participate have access to advanced notice

People who come to participate in a public hearing or come to express their views on an issue may be doing so for the first time. The experience can be intimidating and emotional. Sometimes their behavior is nervous, forgetful or even aggressive; however, most people will relax when they perceive that they are treated well and that their concerns are given thoughtful consideration.

Meeting Courtesy

- An agenda shall always be available for members of the audience;
- Commissioners shall treat the members of the public with dignity and respect;
- Commissioners shall refrain from displaying negative gestures or sounds when they disagree with a member of the public or another commissioner;
- Side conversations shall be avoided;
- The chairperson shall inform the audience of the time limits for speakers and should adhere to those limits;
- The chairperson shall explain the purpose of the meeting and the appropriate time to ask questions;
- The chairperson shall explain technical terms or jargon that might otherwise make it difficult for the audience to follow the deliberations;
- The chairperson shall thank participants for their attendance.

Challenging Meetings

If it is anticipated that a particular meeting may be difficult because of controversy surrounding an issue, the chairperson is encouraged to discuss the situation with the staff representative and another commissioner whose input he or she respects. Consideration should be given to making the meeting as productive as possible while respecting differences and individual needs.

Running a Smooth Meeting:

- Plan the agenda carefully and strategically;
- Make sure the room is comfortable and that adequate seating and audio capability are provided;
- Plan for the location of the media to avoid unnecessary disruptions;
- Try to anticipate difficult questions, problems and information in advance so that clear, concise responses can be given.

During the Meeting:

- Begin with a staff review of the issue so everyone is operating with the same set of facts;
- Review procedural expectations including speaker time limits;
- Remind the speakers that they must address the commission, not the audience;
- Explain the rules surrounding public comment and if questions from the audience will be accepted;

- Remind the audience that there shall be no demonstration for or against a speaker;
- Make sure that all who wish to speak have an opportunity to do so;
- Model polite listening behavior;
- Apply speaker time limits impartially.

Relationship with City Administrator

The City Administrator, also known as the City Manager, shall be Ex-Officio member of each City sponsored Board, Commission, Committee or Task Force and shall have the right to participate in all the deliberations thereof, but shall not have the right to vote unless specifically appointed. The City Administrator may call a Special Meeting or a Committee of the Whole Meeting of any Commission with proper notice and in accordance with the State of Michigan's Open Meeting Act.

The City Administrator is also typically responsible for establishing the agenda for the Durand City Council at all regular and special meetings. By the request of at least two members of council additional items can be added to the agenda of a regular meeting.

Relationship of Commissioners to City Council

The City's seven Councilmembers divide the task of serving as liaisons to the various commissions. The role of Councilmembers varies between commissions. Recommendations for consideration of appointments of new commissioners are made in collaboration with the City's Staff Liaison as a recommendation of the Commission to the City Council. All appointments must then be made by the Mayor and approved by the entire City Council during a meeting.

Each commission advises the City Council on specific issues or on policy matters regarding its assigned responsibilities and duties. It is incumbent upon the Council liaison to keep the other Councilmembers updated and ensure that the Council remains informed of important activities of each commission.

In some cases an individual commissioner who cares deeply about a particular issue may wish to appeal directly to the Council in order to shape the outcome of Council's decision. However, this is discouraged because it detracts from the purpose of the commission which is to arrive at a decision, recommendation or set of recommendations based on consensus. The outcome of commission deliberations shall be based on the vote of the body rather than the preferences of a single member. The responsibility of a commission is not to control the outcome of decisions that will ultimately be undertaken by Council, but to provide the best possible advice based on public input, analysis and review of the issue(s).

Each commission has its own set of tasks to accomplish based on mission. Some activities are prescribed by local ordinance, State of Michigan, and/or federal statute. Others are established by interests and expertise of commission members. Each commission should prepare, in collaboration with staff support and the council liaison, a work program comprised of items to take up over the course of a calendar year.

The Relationship with City Staff

City Administrator and Staff Liaisons

Commissions are assigned a staff liaison with expertise in the area falling under its purview. The City Administrator has management authority over all commissions, save the City Council, with regards to policy review, omission, and conflicting policies. The City Administrator makes all assignments of staff liaison in accordance with all applicable local, State and Federal laws/regulations. The staff liaison is assigned to attend representative commission meetings but is typically not a voting member of the group. In some cases, they

are active participants during the discussion phase and, in other cases, they are not.

Staff for some commissions, such as the Planning Commission, is expected to make a formal recommendation on the course of action, based on the law, policy and professional expertise. In all cases, the role of staff is to support the work of commissioners by providing information and background, keeping minutes and agendas, helping to plan and organize commission activities and in general, acting as facilitator. Staff is expected to have an in-depth understanding of the community and its history. When commissioners differ on an issue, the role of staff is to remain neutral. Staff will look to the chairperson to speak for the commission as a whole.

Once a commission has taken action, it is the role of staff to make a formal report and presentation, upon Council's or City Administrator's request, to Council and to prepare any associated materials needed. Staff is required to provide a complete overview of the commission's proceedings and to ensure that all relevant points are included in the final packet of information the City Council will use for deliberation and decision-making.

While staff is actively involved in the commission's work, they also have other duties and assignments. It is solely the Department Director who determines staff work agendas and directs staff activities. Sometimes commissioners will want to direct the work of staff or take it on personally; however, neither course of action is appropriate. If commissioners have concerns about staff activities and work, they should be discussed directly by the individuals involved. Often, this type of discussion provides insight to commissioners about the types of constraints under which staff operate. If the concern is unresolved, the commissioner may approach the City Administrator to discuss their concerns. If the concern remains unresolved after discussion with the City Administrator, the commissioner may approach the City Council with concerns.

The City Clerk

The City Clerk maintains all documentation and responds to requests for information, which are subject to the Freedom of Information Act (FOIA), on behalf of the City and must adhere to the standards specified within the City's policy. The City Clerk is available to provide commissioners information about the Open Meetings Act, the Freedom of Information Act and this Boards and this Commissions Policy Manual. The City Clerk will respond to all requests made to a commission, for information, under FOIA, and according to the City's FOIA response policy included in this manual.

Each commission must provide the City Clerk with the following documents, typically these materials can be coordinated through the commission's staff liaisons:

1. Notification of Meeting
2. Notification of Cancellation of a Meeting
3. Notification of a Special Meeting
4. Notification of a Cancellation of a Special Meeting
5. Meeting Agenda
6. Commissioner Board Packages
7. Meeting Minutes
8. Requests for Information

The City Clerk may request an audience with the commission to provide training on the OMA, FOIA or City policies on documentation and must be granted time at the commission's next regular meeting or at a special meeting called if the commission does not have a regular schedule.

The City Attorney

Occasionally, the City's Attorneys will work with a commission on a specific issue or will attend meetings to advise and counsel the commission. The staff representative, with the Department Director's approval, will

make arrangements for the City's Attorneys' involvement with the commission. The City staff representative or the City Council liaison must facilitate all interactions with the City's Attorney.

The City's Attorney is the City Council's primary legal representative and renders legal opinions on their behalf only in matters involving the City. The City Attorney's opinions are binding as he or she would defend the City in the case of a legal challenge.

Role of the Chairperson

The chairperson is the key to the effectiveness of the group decision-making process. The chairperson provides direction and sets the tone for the meeting with the other commissioners and with the public. The chairperson must strike a balance between moving the meeting along and allowing for an inclusive and democratic process. To be effective, the chairperson needs the support and trust of the other members.

In the chairperson's absence, the vice-chairperson will assume the duty of presiding over the meeting

Techniques of an Effective Chairperson;

- Uses parliamentary procedure at all times;
- Expects courteous behavior from all commissioners and models such behavior;
- Treats the public with courtesy and diplomacy;
- Listens attentively to all speakers;
- Solicits opinions, ideas and perspectives from all members and avoids letting a few dominate the discussion;
- Protects new ideas from rejection prior to fair evaluation;
- Keeps the discussion focused on the topic at hand and redirects the group when it digresses;
- Delays decision-making until all of the ideas have been articulated and given consideration;
- Attempts to gain consensus;
- Balances discussion and meeting time constraints;
- Assures formal decorum is observed at all times;
- Keeps the audience apprised of process and procedure being used by the group;
- Always restates the motion prior to calling for a vote;
- Applies time limits to all speakers consistently.

Media Relations

Local government is a major source of news for the local print, radio and television media. Each outlet assigns a specific reporter to cover the City. The City works closely with the media to ensure accurate and thorough coverage of its issues. Generally, reporters will seek information directly from the City Manager, City Councilmembers, or individual department directors.

If approached by a reporter, consider these guidelines:

- You have the right as a private citizen to speak with the media but first ask yourself if you are the best person to answer questions about the commission's work. Is it more appropriate for the reporter to speak with a City official?

- If you speak with a reporter, stick to the facts. Anything you say may end up in print or on TV. If you do not want to see it in print or over the airwaves, don't say it;
- If you decide to provide your opinion, make it clear that you are speaking for yourself, not the balance of your commission, the City Council or Administration;
- Sometimes reporters get it wrong. Remember that any time you discuss an issue, you run the risk of being misquoted or misrepresented;

Commissioners are discouraged from engaging in direct media contact. Media relations should be discussed by the commission with consensus about publicizing a project, issue or decision.

Freedom of Information Act

Section 1: General Policies

The City Council, acting pursuant to the authority at MCL 15.236, designates the City Clerk as the FOIA Coordinator and Police Receptionist as the Assistant FOIA Coordinator. He or she are authorized to designate other City staff to act on his or her behalf to accept and process written requests for the City's public records and approvedenials.

It is imperative that any employee of the City of Durand who receives a written or electronic FOIA request to immediately forward that request to the City Clerk or Police Department Receptionist, as relevant. The FOIA Coordinator may, in his or her discretion, implement administrative rules, consistent with State law and these Procedures and Guidelines to administer the acceptance and processing of FOIA requests.

The City is not obligated to create a new public record or make a compilation or summary of information which does not already exist. Neither the FOIA Coordinator nor other City staff are obligated to provide answers to questions contained in requests for public records or regarding the content of the records themselves.

A copy of FOIA procedures and polices is available on the City of Durand website at: https://durandmi.com/information/freedom_of_information_act.php

Section 2: Requesting a Public Record

The help expedite and clarify your request, requestors are encouraged but not required to complete a FOIA Request Form. That form is available for download on the City of Durand website or in hard copy from the Office of the City Clerk.

Requests to inspect or obtain copies of public records prepared, owned, used, possessed or retained by the City may be submitted on the City's FOIA Request Form, in any other form of writing (letter, fax, email, etc.), or by verbal request.

A request must sufficiently describe a public record so as to enable City personnel to identify and find the requested public record.

Written requests for public records may be submitted in person or by mail to any City office. Requests may also be submitted electronically by fax and email. Upon their receipt, requests for public records shall be promptly forwarded to the FOIA Coordinator for processing.

A person may request that public records be provided on non-paper physical media, emailed or other otherwise provided to him or her in digital form in lieu of paper copies. The City will comply with the request only if it possesses the necessary technological capability to provide records in the requested non-

paper physical media format.

A person may subscribe to future issues of public records that are created, issued or disseminated by the City on a regular basis. A subscription is valid for up to 6 months and may be renewed by the subscriber.

A person serving a sentence of imprisonment in a local, state or federal correctional facility is not entitled to submit a request for a public record. The FOIA Coordinator will deny all such requests.

Section 3: Processing a Request

Unless otherwise agreed to in writing by the person making the request, the City will issue a response within five (5) business days of receipt of a FOIA request. If a request is received by fax, email or other electronic transmission, the request is deemed to have been received on the following business day.

The City will respond to a request in one of the following ways:

- Grant the request.
- Issue a written notice denying the request.
- Grant the request in part and issue a written notice denying in part the request.
- Issue a notice indicating that due to the nature of the request the City needs an additional 10 business days to respond for a total of no more than 15 business days. Only one such extension is permitted.
- Issue a written notice indicating that the public record requested is available at no charge on the City's website at www.durandmi.com.

When a request is granted:

If the request is granted, or granted in part, the FOIA Coordinator will provide a summary of costs associated with satisfying the public record request. If the cost of processing a FOIA request is \$50 or less, the requester will be notified of the amount due and where the documents can be obtained.

If the cost of processing a FOIA request is expected to exceed \$50 based on a good-faith calculation, or if the requestor has not paid in full for a previously granted request, the City will require a good-faith deposit before processing the request.

In making the request for a good-faith deposit the FOIA Coordinator shall provide the requestor with a detailed itemization of the allowable costs estimated to be incurred by the City to process the request and also provide a best-effort estimate of a time frame it will take the City to provide the records to the requestor. The best-effort estimate shall be nonbinding on the City, but will be made in good faith and will strive to be reasonably accurate, given the nature of the request in the particular instance, so as to provide the requested records in a manner based on the public policy expressed by Section 1 of the FOIA.

When a request is denied or denied in part:

If the request is denied or denied in part, the FOIA Coordinator will issue a Notice of Denial which shall provide in the applicable circumstance:

- An explanation as to why a requested public record is exempt from disclosure; or
- A certificate that the requested record does not exist under the name or description provided by the requestor, or another name reasonably known by the City; or
- An explanation or description of the public record or information within a public record that is separated or deleted from the public record; and
- An explanation of the person's right to submit an appeal of the denial to either the office of the City Administrator or seek judicial review in the Shiawassee County Circuit Court; and

- An explanation of the right to receive attorneys' fees, costs, and disbursements as well as actual or compensatory damages, and punitive damages of \$1,000, should they prevail in Circuit Court.
- The Notice of Denial shall be signed by the FOIA Coordinator.

If a request does not sufficiently describe a public record, the FOIA Coordinator will issue a Notice of Denial indicating that the request is deficient, seek clarification or amendment of the request by the person making the request. Any clarification or amendment will be considered a new request subject to the timelines described in this Section.

Requests to inspect public records:

The City shall provide reasonable facilities and opportunities for persons to examine and inspect public records during normal business hours. The FOIA Coordinator is authorized to promulgate rules regulating the manner in which records may be viewed so as to protect City records from loss, alteration, mutilation or destruction and to prevent excessive interference with normal City operations.

Determining Applicable Fees:

The Michigan FOIA statute permits the City to charge for the following costs associated with processing a request:

- Labor costs associated with copying or duplication, which includes making paper copies, making digital copies, or transferring digital public records to non-paper physical media or through the Internet.
- Labor costs associated with searching for, locating and examining a requested public record, when failure to charge a fee will result in unreasonably high costs to the City.
- Labor costs associated with a review of a record to separate and delete information exempt from disclosure, when failure to charge a fee will result in unreasonably high costs to the City.
- The cost of copying or duplication, not including labor, of paper copies of public records. This may include the cost for copies of records already on the city's website if you ask for the city to make copies.
- The cost of computer discs, computer tapes or other digital or similar media when the requester asks for records in non-paper physical media. This may include the cost for copies of records already on the city's website if you ask for the city to make copies.
- The cost to mail or send a public record to a requestor.

Labor costs will be calculated based on the following requirements:

- All labor costs will be estimated and charged in 15-minute increments, with all partial time increments rounded down. If the time involved is less than 15 minutes, there will be no charge.
- Labor costs will be charged at the hourly wage of the lowest-paid City employee capable of doing the work in the specific fee category, regardless of who actually performs work.
- Labor costs will also include a charge to cover or partially cover the cost of fringe benefits.
- The City may add up to 50% to the applicable labor charge amount to cover or partially cover the cost of fringe benefits, but in no case may it exceed the actual cost of fringe benefits.
- Overtime wages will not be included in labor costs unless agreed to by the requestor; overtime costs will not be used to calculate the fringe benefit cost.
- Contracted labor costs will be charged at the hourly rate of six times the state minimum hourly wage.

The cost to provide records on non-paper physical media when so requested will be based on the following requirements:

- Computer disks, computer tapes or other digital or similar media will be at the actual and most reasonably economical cost for the non-paper media.
- This cost will only be assessed if the City has the technological capability necessary to provide the public record in the requested non-paper physical media format.
- The City will procure any non-paper media and will not accept media from the requestor in order to ensure integrity of the City's technology infrastructure.

The cost to provide paper copies of records will be based on the following requirements:

- Paper copies of public records made on standard letter (8 ½ x 11) or legal (8 ½ x 14) sized paper will not exceed \$.10 per sheet of paper. Copies for non-standard sized sheets of paper will reflect the actual cost of reproduction.
- The City will provide records using double-sided printing, if it is cost-saving and available.

The cost to mail records to a requestor will be based on the following requirements:

The actual cost to mail public records using a reasonably economical and justified means.

- The City may charge for the least expensive form of postal delivery confirmation.
- No cost will be made for expedited shipping or insurance unless specified by the requestor.

If the FOIA Coordinator does not respond to a written request in a timely manner, the City must:

- Reduce the labor costs by 5% for each day the City exceeds the time permitted under FOIA up to a 50% maximum reduction, if **any** of the following applies:
 - The City's late response was willful and intentional,
 - The written request conveyed a request for information within the first 250 words of the body of a letter facsimile, email or email attachment, or
 - The written request included the words, characters, or abbreviations for "freedom of information," "information," "FOIA," "copy" or a recognizable misspelling of such, or legal code reference to MCL 15. 231, et seq. or 1976 Public Act 442 on the front of an envelope or in the subject line of an email, letter or facsimile cover page.
- Fully note the charge reduction in the Detailed Itemization of Costs Form.

Section 4: Waiver or Discounted Fees

The cost of the search for and copying of a public record may be waived or reduced if in the sole judgment of the FOIA Coordinator a waiver or reduced fee is in the public interest because it can be considered as primarily benefitting the general public. The city council may identify specific records or types of records it deems should be made available for no charge or at a reduced cost. The FOIA Coordinator may also reduce the fees for a request if the person requesting a public record submits an affidavit stating that they are:

- Indigent and receiving specific public assistance, or
- If not receiving public assistance, stating facts demonstrating an inability to pay because of indigence.

An individual is not eligible to receive the waiver if:

- The requestor has previously received discounted copies of public records from the City twice during the calendar year; or
- The requestor requests information in connection with other persons who are offering or providing payment to make the request.

CODE OF CONDUCT STATEMENT

Durand Code of Conduct

All commissioners and council members are expect to treat each other, elected officials, residents, and other individuals whom they encounter as part of their work with respect and professionalism. In this effort, the City has outlined certain rules of conduct that must be followed if the organization is to operate in a safe, efficient and orderly manner. Based on common sense and good judgment, these rules are designed to protect the integrity of the City of Durand.

It should be noted that this list is not and all-inclusive list and there may be other circumstances that result in disciplinary action. The following actions are considered prohibited for all City employees:

- Rudeness to or mistreatment of others, offensive language or conduct
- Possession of, dispensing, consuming or being under the influence of alcohol or narcotics
- Smoking inside a City operated facility or in City owned vehicle
- Dishonesty or falsification of documents
- Willful damage or defacing of property or facilities, or willful negligence with City money or City property
- Unsatisfactory performance ratings or other poor work performance, inefficiency or incompetence
- Use of, or threat to use, personal or political influence to advance position
- Failure to cooperate with other governmental agencies or the press according to City policies
- Inducing or attempt to induce other employee(s) to commit unlawful acts or violate City rules or regulations
- Accepting gifts, fees, valuables, or any form of payment intended to gain favorable treatment, or otherwise displaying favoritism
- Neglect of duty
- Theft
- Irregular attendance, excessive absenteeism, excessive tardiness, or absence without notification or permission
- Posting or removing bulletin notices without proper authorization
- Fighting or disorderly conduct
- Gambling while on duty
- Sleeping on duty
- Unauthorized possession of weapons
- Violation of other conditions or procedures specified within this policy manual

Principals of Ethical Conduct

The following principles of ethical conduct apply to all officers, employees, board members, or agents of the City of Durand and form the basis for specific standards:

- Public service is a public trust, requiring agents of the City to place loyalty to the Constitution, the laws and ethical principles above private gain.
- Officers, employees, board members, or agents shall not hold financial interests that conflict with the conscientious performance of duty.
- Officers, employees, board members, or agents shall not engage in financial transactions using nonpublic Government information or allow the improper use of such information to further any private interest referred to in the regulations.

- An Officers, employees, board members, or agents shall not, except pursuant to the exceptions discussed under Gifts and Gratuities, solicit or accept any gift or other item of monetary value from any person or entity seeking official actions from doing business with, or conducting activities regulated by the City of Durand, or whose interests may be substantially affected by the performance or nonperformance of their duties.
- Officers, employees, board members, or agents shall put forth honest effort in the performance of their duties.
- Officers, employees, board members, or agents shall make no unauthorized commitments or promises of any kind purporting to bind the City of Durand.
- Officers, employees, board members, or agents shall not use public office for private gain.
- Officers, employees, board members, or agents shall act impartially and not give preferential treatment to any private organization or individual.
- Officers, employees, board members, or agents shall protect and conserve Federal property and shall not use it for other than authorized activities.
- Officers, employees, board members, or agents shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflicts with official City of Durand duties and responsibilities.
- Officers, employees, board members, or agents shall disclose waste, fraud, abuse, and corruption to proper authorities.
- Officers, employees, board members, or agents shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those such as Federal, State and local taxes that are imposed by law.
- Officers, employees, board members, or agents shall adhere to all laws and regulations that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age, or handicap.
- Officers, employees, board members, or agents shall endeavor to avoid any actions creating the appearance that they are violating the law or these Standards of Ethical Conduct.

Gifts and Gratuities

As public servants, it is imperative that services are rendered and business contracts awarded without favoritism or the suggestion that gifts and/or gratuities are expected in return. To guard against the appearance of such favoritism, agents of the City of Durand are encouraged to neither solicit nor accept any personal gift or gratuity from any individual, business, firm or organization having business, or endeavoring to secure business, with the City, or for any service rendered by the employee while on duty. If a gift, gratuity or tip, arising out of your work with the City of Durand is mailed or personally delivered to an agent at his/her home or at work, he/she is expected to promptly report the incident to the City Attorney.

Donations to the City of money, services, equipment, or any other item, must be presented to the City Council for their approval prior to acceptance. The item donated, source of donation, and estimated value of donated item must accompany the request to Council to approve the donation.

The term "gift" includes almost anything of monetary value. However, it does not include:

- Coffee, donuts and similar modest items of food and refreshments when offered other than as part of a meal;
- Greeting cards and most plaques, certificates and trophies;
- Prizes in contests open to the public;
- Commercial discounts available to the general public or to all Government or military personnel;
- Commercial loans, and pensions and similar benefits;
- Anything paid for by the Government, secured by the Government under Government contract

- or accepted by the Government in accordance with a statute;
- Anything for which the employee pays market value.

Exceptions

Subject to the limitations noted below, certain gifts of a nominal value are permissible for agents of the City of Durand to accept:

- Unsolicited gifts such as promotional items with a market value of \$20 or less per occasion, aggregating no more than \$50 per calendar year from any one source (this exception does not permit gifts of cash or investment interest);
- Commercial discounts and similar benefits offered to groups in which membership is not related to the City of Durand employment or, if membership is related to the City of Durand employment, where the same offer is broadly available to the public through similar groups, and certain benefits offered by professional associations or by persons who are not prohibited sources.
- Certain awards and honorary degrees;
- Gifts resulting from the outside business activities of employees and their spouses;
- Free attendance provided by the sponsor of an event for the day on which an employee is speaking or presenting information.
- Free attendance provided by the sponsor of a widely-attended gathering of mutual interest to a number of parties where the necessary determination of agency interest has been made; if free attendance to a widely-attended gathering is offered from a nonsponsor, check with the City Attorney;
- Invitations to certain social events extended by persons who are not prohibited sources, provided no one is charged a fee to attend the event;
- Other exceptions as may be deemed appropriate as part of normal businesses for the City of Durand, as determined by the City Attorney.

GENERAL LIABILITY

The City of Durand errors and omission insurance policy covers all commission members as they engage in the policy process. Commissions and City Council members are covered in their actions as long as they are based on standards or accepted review procedures in the ordinance they follow. However, if a commission or a commissioner makes an administrative decision that is “arbitrary and capricious” and is not based on standards of review, they will not be covered under this policy. Any individual or group decision to deviate from this policy manual may result in the individual or group’s immediate removal from the commission and/or result in a lack of qualified coverage under the City’s general liability policy

CITY OF DURAND

BOARDS AND COMMISSIONS BEST PRACTICES HANDBOOK SIGNATURE PAGE

My signature below confirms that I have received a copy of the Durand City Boards and Commissions Policy. I agree to adhere to and abide by the policy and the Code of Ethics as written.

Signature: _____

Printed Name: _____

Today's Date: _____

Name of Board: _____