

RESOLUTION NO. _____

DATE: _____

**A RESOLUTION OF THE SALT LAKE COUNTY COUNCIL
PROVIDING FOR THE CONDUCT OF ELECTRONIC COUNCIL MEETINGS
DURING THE COVID-19 PUBLIC HEALTH EMERGENCY**

WHEREAS, the Salt Lake County Council is the legislative body for Salt Lake County, and is a public body governed by the Utah Open and Public Meetings Act (“OPMA”), Utah Code Ann. § 52-4-101 et seq.; and

WHEREAS, pursuant to Salt Lake County Ordinance § 2.04.070, the Salt Lake County Council holds regular weekly meetings at the Salt Lake County Government Center in Salt Lake City, Utah, as well as regular work meetings of the Council’s Committee of the Whole; and

WHEREAS, consistent with OPMA, Salt Lake Countywide Policy 1037 provides that the Salt Lake County Council “may, from time to time as needed, convene and conduct Council meetings in which one or more Council members attend and participate in the meeting through electronic means” (a copy of Countywide Policy 1037 is attached to this resolution as “Exhibit 1” and is incorporated herein by reference); and

WHEREAS, on or about March, 6, 2020, the Governor of the State of Utah and the Mayor of Salt Lake County each declared a state of emergency related to the novel coronavirus disease COVID-19; and

WHEREAS, on or about March 16, 2020, the Mayor of Salt Lake County declared a public health emergency in Salt Lake County related to COVID-19; and

WHEREAS, public health authorities have recommended that individuals limit public gatherings and undertake social distancing measures in order to prevent the further spread of COVID-19; and

WHEREAS, on or about March 18, 2020, the Governor of the State of Utah signed an Executive Order suspending enforcement of portions of the OPMA relating to the conduct of

electronic meetings due to the declared state of emergency, a copy of which is attached to this resolution as “Exhibit 2” and is incorporated herein by reference; and

WHEREAS, in keeping with best public health recommendations, the Salt Lake County Council finds it expedient and necessary to modify the conduct of meetings of the Council in order to help prevent unnecessary person-to-person transmission of COVID-19; and

NOW, THEREFORE, be it resolved by the Salt Lake County Council that:

- 1) To the extent practical, the Salt Lake County Council will continue to conduct its meetings consistent with current practice, including compliance with all requirements of OPMA. Councilmembers may exercise discretion to participate in Council meetings by electronic means consistent with Countywide Policy 1037.
- 2) Members of the public are encouraged to participate in Council meetings electronically and may offer citizen public input through approved telephone means as explained in the Council’s published meeting agendas. The Chair shall exercise discretion to limit the number of persons physically attending Council meetings in order to comply with current public health recommendations necessary to ensure health and safety.
- 3) Consistent with the Governor’s Executive Order, and at the further direction of the Chair, the Salt Lake Council may temporarily waive the following requirements of the OPMA and Countywide Policy 1037 as they relate to electronic meetings:
 - a. Waive the requirement that Council agendas be physically posted at the Salt Lake County Government Center;
 - b. Waive the requirement that a physical anchor location be established for an electronic meeting of the Council;
 - c. Waive the requirement that physical space and facilities be provided for members of the public to attend the open portions of an electronic meeting of the Council.

- 4) The Salt Lake County Council will continue to post meeting agendas on its website and on the Utah Open Public Meetings Act website and will continue to stream the open portions of its meetings – including any electronic meetings – for members of the public.

This effect of this resolution shall terminate with the expiration of the Governor’s Executive Order that has been attached and incorporated as Exhibit 2.

APPROVED and ADOPTED this _____ day of _____, 2020.

SALT LAKE COUNTY COUNCIL

By: _____
Max Burdick, Chair

ATTEST:

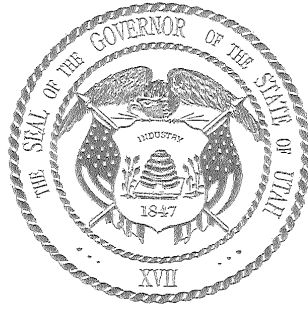
Sherrie Swensen
Salt Lake County Clerk

APPROVED AS TO FORM

Gavin J Anderson 19 March 2020
Deputy District Attorney Date

Council Member Bradley voting _____
Council Member Bradshaw voting _____
Council Member Burdick voting _____
Council Member DeBry voting _____
Council Member Granato voting _____
Council Member Ghorbani voting _____
Council Member Jensen voting _____
Council Member Snelgrove voting _____
Council Member Winder Newton voting _____

Exhibit 1:
Executive Order of Governor Gary Herbert dated March 18, 2020



Gary Richard Herbert

Governor

EXECUTIVE ORDER

Suspending the Enforcement of Provisions of Utah Code §§ 52-4-202 and 52-4-207, and Related State Agency Orders, Rules, and Regulations, Due to Infectious Disease COVID-19 Novel Coronavirus

WHEREAS, On March 6, 2020, Governor Gary R. Herbert issued an Executive Order declaring a state of emergency due to novel coronavirus disease 2019 (COVID-19);

WHEREAS, On March 11, 2020, the World Health Organization characterized the COVID-19 outbreak as a pandemic;

WHEREAS, On March 13, 2020, President Donald J. Trump declared a national state of emergency based on the continuing spread of COVID-19;

WHEREAS, Federal, state, and local authorities have recommended that individuals limit public gatherings and that individuals experiencing symptoms of COVID-19 self-isolate to prevent and control the continuing spread of COVID-19;

WHEREAS, The public monitoring and participation requirements in the Open and Public Meetings Act, Utah Code § 52-4-101 et seq. (OPMA), will gather interested persons, members of the public, and members of a public body in a single, confined location where the risks of further spreading COVID-19 are far greater;

WHEREAS, Utah Code § 52-4-207(2) prohibits a public body from holding an electronic meeting unless the public body has adopted a resolution, rule, or ordinance governing the use of electronic meetings;

WHEREAS, Utah Code §§ 52-4-207(3)(a)(ii), (c), (d), and (e) require a public body to take certain actions regarding anchor locations associated with an electronic meeting where members of the public body, interested persons, or the public are required or permitted to gather;

WHEREAS, Utah Code § 52-4-202(3)(a)(i)(A), requires a public body to give public notice of a meeting by posting written notice at the principal office of the public body or specified body, or if no principal office exists, at the building where the meeting is to be held;

WHEREAS, Utah Code §§ 52-4-202(3)(a)(i)(A), 207(2), 207(3)(a)(ii), 207(3)(c), 207(3)(d), and 207(3)(e) limit the ability of public bodies to hold electronic meetings and thereby implement the recommendations of federal, state, and local authorities to limit gatherings and encourage self-isolation in order to prevent and control the continuing spread of COVID-19;

WHEREAS, Strict compliance with the provisions of any order, rule, or regulation of any state agency implementing or conforming with Utah Code §§ 52-4-202(3)(a)(i)(A), 207(2), 207(3)(a)(ii), 207(3)(c), 207(3)(d), and 207(3)(e) would substantially prevent, hinder, or delay necessary action in coping with the continuing spread of COVID-19;

WHEREAS, Suspending the enforcement of Utah Code §§ 52-4-202(3)(a)(i)(A), 207(2), 207(3)(a)(ii), 207(3)(c), 207(3)(d), 207(3)(e), and any provision of any order, rule, or regulation of any state agency to the extent that the order, rule, or regulation implements or conforms with

these subsections is directly related to and necessary to address the state of emergency declared due to COVID-19;

WHEREAS, Utah Code § 53-2a-209(4) authorizes the governor to suspend by executive order enforcement of a statute that is directly related to and necessary to address a state of emergency;

WHEREAS, Utah Code § 53-2a-209(3) authorizes the governor to suspend the provisions of any order, rule, or regulation of any state agency, if the strict compliance with the provisions of the order, rule, or regulation would substantially prevent, hinder, or delay necessary action in coping with the emergency or disaster;

WHEREAS, Utah Code § 53-2a-204(1)(b) authorizes the governor to employ measures and give direction to state and local officers and agencies that are reasonable and necessary to secure compliance with orders made pursuant to part 2 of the Emergency Management Act;

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, hereby order the suspension of enforcement of Utah Code §§ 52-4-202(3)(a)(i)(A), 207(2), 207(3)(a)(ii), 207(3)(c), 207(3)(d), and 207(3)(e), and the suspension of any provision of any order, rule, or regulation of any state agency to the extent that the order, rule, or regulation implements or conforms with these subsections.

Accordingly, a public body governed by OPMA may hold an electronic meeting even if the public body has not adopted a resolution, rule, or ordinance governing the use of electronic meetings. Furthermore, a public body that convenes or conducts an electronic meeting is not required to:

1. post written notice at the principal office of the public body or specified body, or if no principal office exists, at the building where the meeting is to be held;
2. post written notice at an anchor location;
3. establish one or more anchor locations for the public meeting, at least one of which is in the building and political subdivision where the public body would normally meet if they were not holding an electronic meeting;
4. provide space and facilities at an anchor location so that interested persons and the public may physically attend and monitor the open portions of the meeting; or
5. if comments from the public will be accepted during the electronic meeting, provide space and facilities at an anchor location so that interested persons and the public may physically attend, monitor, and participate in the open portions of the meeting.

Notwithstanding the foregoing, a public body that holds an electronic meeting shall:

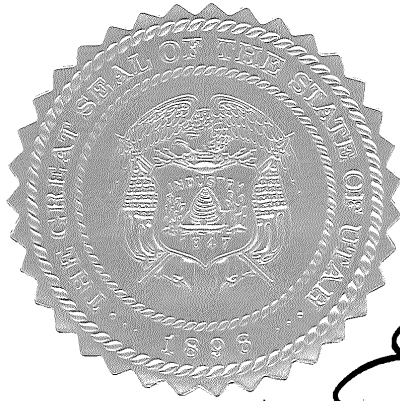
1. provide a means by which interested persons and the public may remotely hear or observe, live, by audio or video transmission the open portions of the meeting;
2. if comments from the public will be accepted during the electronic meeting, provide a means by which interested persons and the public participating remotely may ask questions and make comments by electronic means in the open portions of the meeting; and
3. if the public body has not adopted a resolution, rule, or ordinance governing the use of electronic meetings, adopt as soon as practicable a resolution, rule, or ordinance, which may be adopted at an electronic meeting pursuant to this Order,

governing the use of electronic meetings in accordance with Utah Code § 52-4-207.

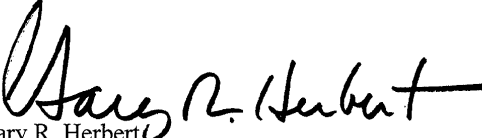
A public hearing governed by OPMA may be conducted electronically according to the exemptions and conditions in this Order.


Except for provisions specifically suspended above, nothing in this Order shall be construed to exempt or excuse a public body from giving public notice of an electronic meeting as otherwise required by Utah Code §§ 52-4-207(3)(a)(i) and (3)(b).

This Order shall remain in effect until the termination of the state of emergency declared in Executive Order 2020-1.



IN TESTIMONY, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah this 18th day of March 2020.


Gary R. Herbert
Governor


Spencer J. Cox
Lieutenant Governor

Attest:

Exhibit 2:
Salt Lake Countywide Policy 1037: County-Wide Policy on Electronic Meetings

SALT LAKE COUNTY
COUNTY-WIDE POLICY
ON
ELECTRONIC MEETINGS

Purpose –

The purpose of this policy is to establish the means and procedures by which the County Council may conduct electronic meetings in accordance with the provisions of the Public Meetings Act (hereinafter "the Act"), and particularly § 52-4-7.8 (UCA, 1997).

1.0 Application of the Act – definitions.

1.1 The County Council hereby adopts those definitions of specific terms which appear in the Act at § 52-4-7.8(1) for application in this policy.

2.0 Electronic Meetings

2.1 The County Council hereby determines that it may, from time to time as needed, convene and conduct Council meetings in which one or more Council members attend and participate in the meeting through electronic means.

2.2 Council electronic meetings may include meetings conducted by means of telephone, telecommunications, electronic mail, or by other computerized, electronic, or teleconferencing means and media.

3.0 Notice

3.1 Prior to conducting an electronic meeting, the Council shall, through its staff, provide advance written and electronic notice of the meeting, including agenda items, 24 hours in advance.

3.2 Notice shall be provided to all Council members, as well as to members of the public and the news media in accordance with the provisions of the Act.

3.3 Each notice shall describe the means of communication and the procedures by which members of the public will be able to monitor and, when appropriate, participate in the electronic meetings.

3.4 The notice shall designate which anchor location will be available for public monitoring and participation.

3.4.1.1. County Council electronic meeting anchor locations may include the following: the Salt Lake County Council Conference room, N2003, the Salt Lake County Budget Hearing room, N2007/N2015; or the Salt Lake County Council Chambers, N1100. all anchor locations are located at the Salt Lake County Government Center, 2001 South State Street, Salt Lake City, Utah.

3.4.1.2 The Council may establish other anchor locations for electronic meetings by majority vote.

4.0 Public Attendance

4.1 Council staff shall provide sufficient and necessary space, equipment and other means as required by the Act, to allow members of the public and the news media to attend, monitor and, where appropriate, participate in the public portion of any electronic meeting conducted by the County Council.

APPROVED and PASSED this 10 day of July, 2001.

SALT LAKE COUNTY COUNCIL

Marvin L. Hendrickson, Chair

ATTEST:

Sherrie Swensen, Salt Lake County Clerk

APPROVED AS TO FORM:

District Attorney's Office Date