

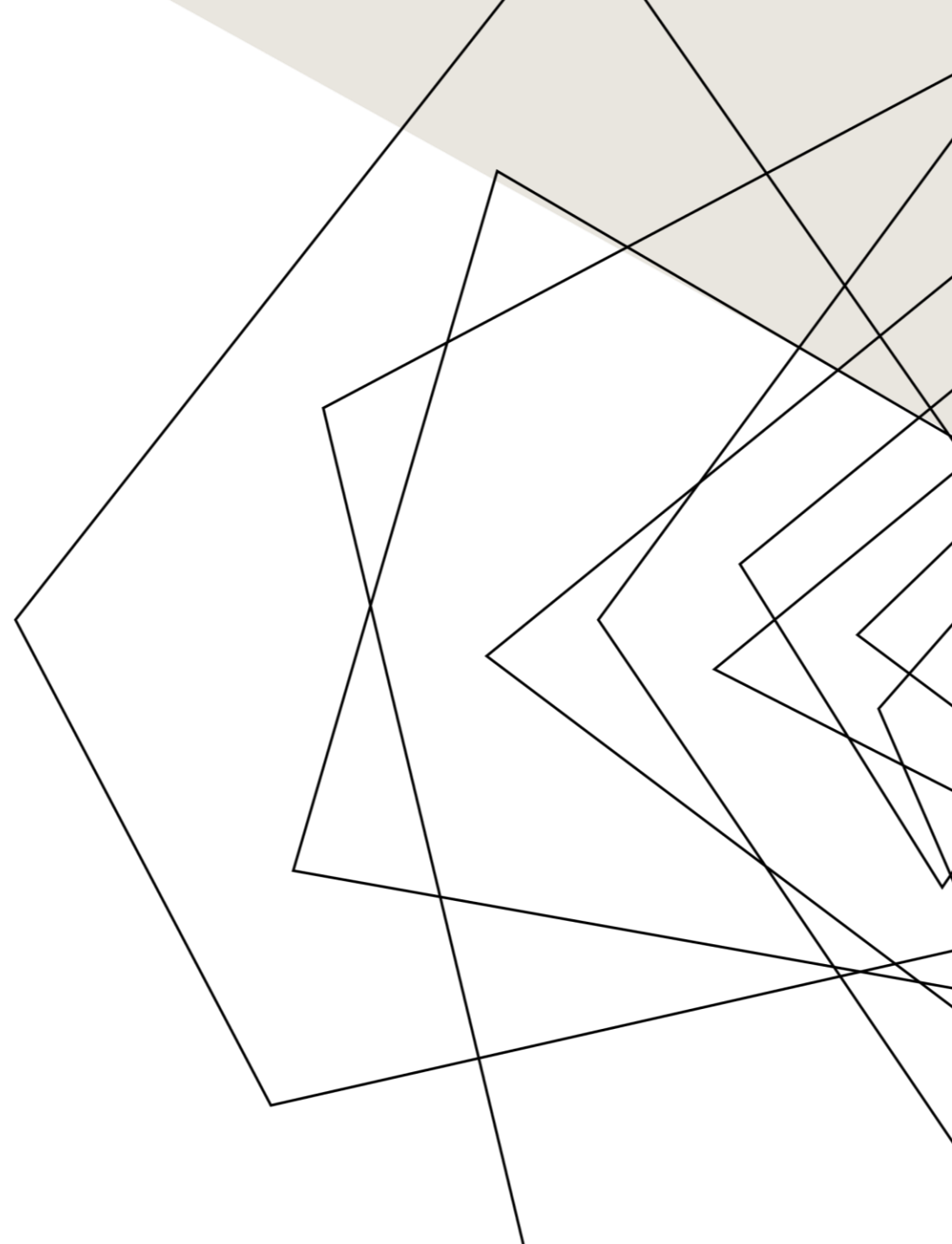
# CITY OF MESA 2024 BOARD TRAINING

Open Meeting Law  
Conflict of interest

# OPEN MEETING LAW

A.R.S. § 38-431.09

It is the public policy of this state that meetings of public bodies be conducted openly and that notices and agendas be provided for such meetings which contain such information as is reasonably necessary to inform the public of the matters to be discussed or decided.



# WHAT IS A MEETING?

A meeting occurs ANY TIME a quorum of the public body discusses, proposes, or takes legal action on a subject that is reasonably likely to come before the board.

- Traditional Meetings
- Electronic Meetings
  - Emails, email forwarding, reply all, social media
- Serial Meetings



# MEETING AGENDA

## Must Have

- Date, Time, Place
- Matters to be discussed or decided in reasonable detail – not just bullet points

Must be posted 24 hours prior

**RULE:** If no posted agenda, no meeting

# IS IT “LEGAL ACTION”

- Violation can occur even if no votes are taken
- All discussions, deliberations, considerations, or consultations among a majority of the members of a public body regarding matters that may foreseeably require final action or a final decision by the governing body, constitute "legal action" and, therefore, must be conducted in a public meeting
- The key is whether the matter may foreseeably require final action

# VIOLATIONS

**ACTIONS** taken by the Committee are **NULL and VOID**.

**The Attorney General or County Attorney INVESTIGATES.**

## **PENALTIES...**

- \$500 civil penalty for violation (and can increase for multiple)
- **REMOVAL** of a committee member if the court makes a finding of intent
- Assess the officer with **ALL COSTS** awarded to the plaintiff
- The City **MAY NOT** spend public monies for legal counsel, so costs are borne by the individual

# CONFLICT OF INTEREST

## A.R.S. § 38-503

Any public officer who has, or whose relative has, a substantial interest in an issue before the advisory committee (or subcommittee) shall declare conflict and refrain from participating in any manner in such decision.

## A.R.S. § 38-502

“Substantial interest” means any nonspeculative **pecuniary or proprietary interest**, either direct or indirect, other than a remote interest.

# WHO DOES IT APPLY TO?

Board/committee members

**AND**

Their spouse, children, parents, in-laws, grandchildren, grandparents, step-children, step-parents, brothers and sisters (whole or half), or brothers and sisters of their spouse

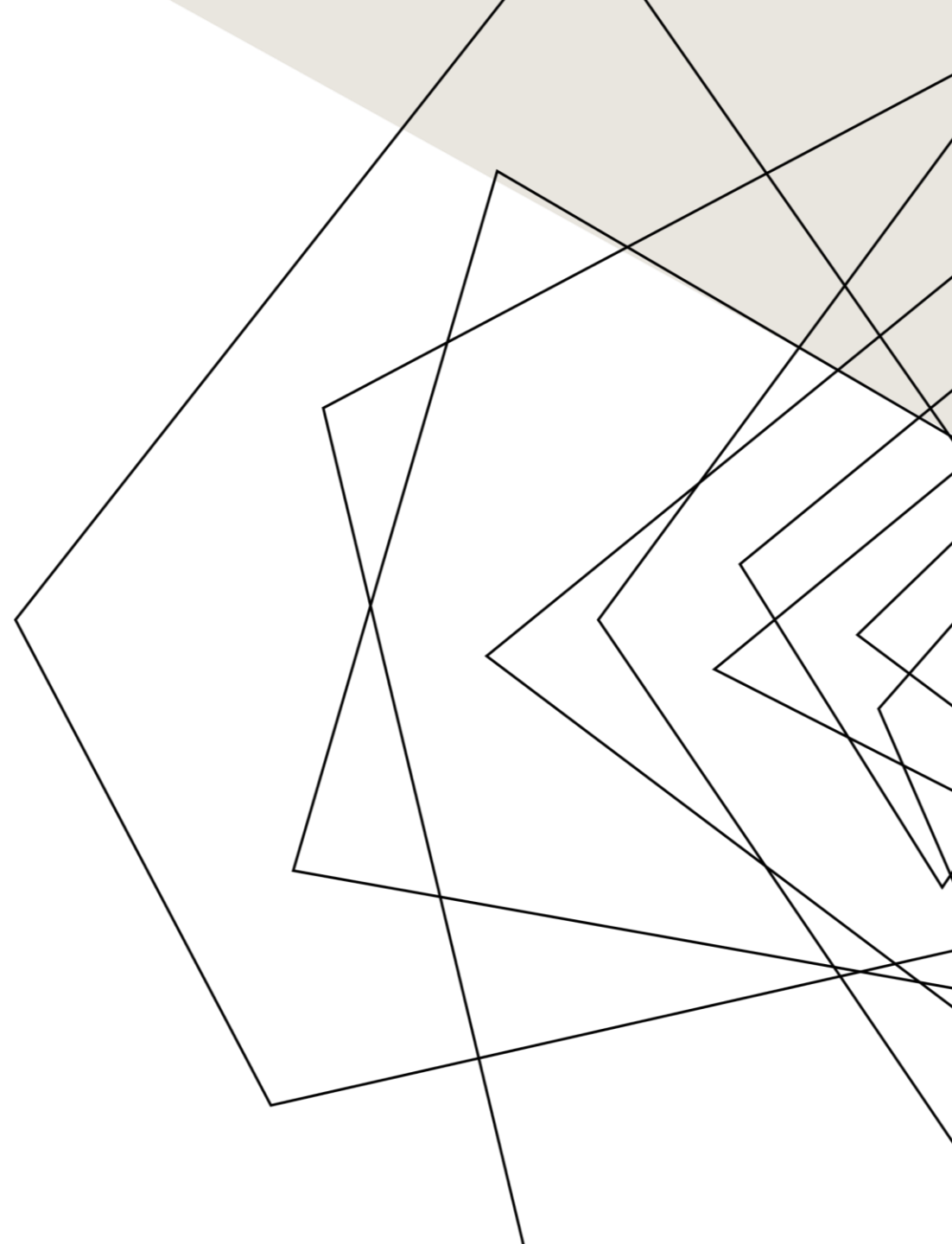


# WHAT DOES THE MEMBER DO IF THEY HAVE A SUBSTANTIAL INTEREST?

- **DO NOT** take part in the discussion or action
- **MAKE THE INTEREST KNOWN** in public records
- **Complete a Public Officer Disclosure Form**

# VIOLATIONS

- CIVIL SUIT to enforce the law
  - Court may award reasonable attorney's fees
- Class VI Felony for INTENTIONALLY or KNOWINGLY violating the law
- Class I Misdemeanor for RECKLESSLY or NEGLIGENTLY violating the law
- Person found guilty might be required to FORFEIT his PUBLIC OFFICE
- Legal costs not borne by the City

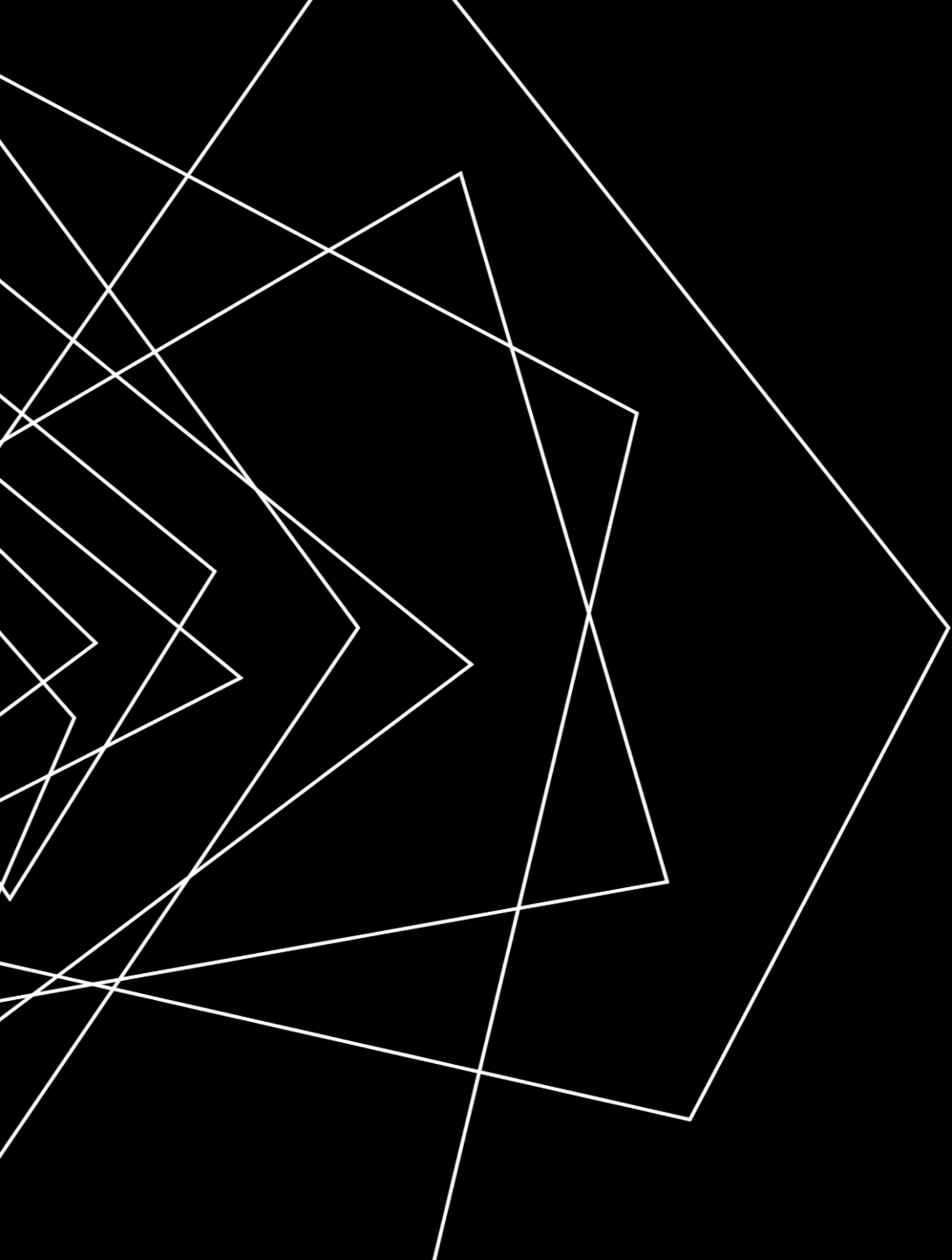


# WHEN IN DOUBT

Avoid the Appearance of Impropriety!

Rather than risk an inadvertent violation of law, the safest course of action is simply to declare that a conflict may exist that prevents an elected official or advisory board member from participating.

Honesty and integrity should be the primary values in all issues. The public trust in the City Council and citizen boards can be a reality only when public officials are truthful.



**THANK YOU**