

Public Meetings, Public Records, and Ethics

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WILSONVILLE
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Public Meetings

- ORS 192.610 – 192.695
- Relevant Definitions:
 - “Governing Body” – members of public body with authority to make decisions for or recommendations to a public body
 - “Public Body” – includes the City and any board, department, commission, council, committee, or other advisory group
 - “Meeting” – convening of a governing body for which a quorum is required in order to make a decision or deliberate toward a decision
- Quorum of the ACHC is a majority (5) of voting members



Public Meetings (cont.)

- Meetings of the ACHC must be open to the public and people must be permitted to attend
 - Trainings are not “meetings” if no substantive issues discussed
- Decisions of the ACHC must be made during a public meeting
- Legal Requirements of a Public Meeting
 - Notice
 - Located within the City’s jurisdiction
 - Accessible location
 - Minutes



Communications Outside of Public Meetings

- When a quorum (majority)
 - No communications to decide or deliberate toward a decision on any matter
 - Serial communications can create a quorum
 - Don't "Reply All"
- When not a quorum
 - Generally can discuss a matter (except quasi-judicial)
 - Best practice is to have discussions at the public meeting only
- When in doubt
 - Talk with staff
 - Avoid talking with other Commissioners



Types of Decisions

- Legislative
 - Sit in the role of policymaker
 - Widely-applicable policies
- Quasi-Judicial
 - Sit in role of judge
 - Evaluate facts and apply specific rules or policies
 - Concerns about *ex parte* contact outside of meeting
- Administrative
 - Internal workings of City
 - Generally, not the type of decisions that require a vote



Public Records

- ORS 192.001-192.607
- Purpose
 - Informed public – what is the government doing?
 - Historic knowledge – how did our government get us here and why?
- What is a public record?
 - Prepared, owned, used, or retained by the City
 - Relates to any activity, transaction, or function of the City
 - Is necessary for the fiscal, legal, administrative, or historical policies, requirements, or needs of the City



Public Records (cont.)

- What is not a public record?
 - Extra copies of the same document
 - Messages on voicemail (if emailed, becomes a public record)
 - Spoken communication that is not recorded
 - Not relating to conducting City business
- Who is subject to the Public Records Law?
 - All public bodies
 - Includes Council and Committees of the City
- Cities must maintain all public records in accordance with state-mandated retention schedules
 - OAR 166-200-0200 – OAR 166-200-0405



Ethics

- ORS Chapter 244 and OAR Chapter 199
- All Public Officials must comply
- Are You a Public Official?
 - Member of a City advisory board
- Prohibited Use of Office
 - The “But For” Test
 - Cannot use or attempt to use position to obtain financial benefit if it would not be otherwise available
 - Applies to public official, public official’s relatives, public official’s household, and any of their businesses
- Gifts
 - Received by public official, relatives, or household members
 - Legislative or administrative interest
 - Not available to the public
 - Limited to \$50 per calendar year per source



Ethics – Conflict of Interest

- Potential and Actual Conflicts of Interest
 - Potential: take official action that could financially impact:
 - The public official
 - The official's relatives
 - A business with which the official is related
 - Actual: take official action that would financially impact official, relatives, or business
- If a Potential Conflict:
 - Announce potential conflict prior to taking any action on the matter
 - Can still participate
- If an Actual Conflict:
 - Announce conflict and refrain from participating in official capacity in any discussion or in voting on the matter



Resources

- Oregon Attorney General's Public Records and Public Meetings Manual
 - https://www.doj.state.or.us/wp-content/uploads/2019/07/public_records_and_meetings_manual.pdf
- League of Oregon Cities' Elected Essentials Videos and Online Books
 - <https://www.orcities.org/education/training/elected-essentials>
 - <https://www.orcities.org/application/files/2515/7427/7942/LocalGovernmentBasics-Updated11-20-19web.pdf>
 - https://www.orcities.org/application/files/5615/7487/0571/2018_EE_Binder_-_Final.pdf
- Oregon Government Ethics Commission's Guide for Public Officials
 - <https://www.oregon.gov/ogec/Documents/2021%20PO%20Guide%20Final%20Adopted.pdf>

