

AGENDA
Urban Renewal Advisory Committee Meeting
City Hall
211 Second Street

Thursday, November 21, 2019
*****5:30 p.m.*****

- I CALL TO ORDER
- II BUSINESS FROM THE AUDIENCE
- III AGENDA ADDITIONS OR CORRECTIONS
- IV URBAN RENEWAL ADMINISTRATOR
 - 1. Consultant Contract Termination and Next Steps
 - 2. URAC Roles, Responsibilities, and Communication
- V ITEMS FROM MEMBERS
- VI ADJOURN

NOTE: All public meeting locations are accessible. Please let the City Recorder know if you will need any special accommodations to attend the meeting. Call (541) 387-5212 for more information. OREGON RELAY SERVICE 1-800-735-2900



HOOD RIVER URBAN RENEWAL AGENCY

Urban Renewal Advisory Committee

211 2nd Street, Hood River, OR 97031 Phone: (541) 387-5214

DATE: November 21, 2019

TO: Urban Renewal Advisory Committee (URAC), Jack Trumbull, Chair

FROM: Will Norris, Finance Dir. / Asst. City Manager

SUBJECT: Urban Renewal Administrator Agenda Items

Greenworks Contract Termination

The Urban Renewal Agency exercised its option to terminate the professional services agreement with Greenworks for convenience on Friday, November 8th. The notice provides 30-days for Greenworks to prepare final billings and transfer work product.

The Urban Renewal Agency's second ranked firm for the Heights Urban Design project, MIG, has expressed continued interest in the project. Upon conclusion of the 30-day contract closeout period, Urban Renewal Agency staff recommends initiating scope and budget discussions with MIG. A primary goal will be to utilize as much existing work product from Greenworks as possible.

A replacement contract with MIG can likely be developed for Agency consideration by early January 2020. An alternative is to re-bid the project. The last competitive solicitation process lasted from December 4th, 2018 when the request for proposal was first released to June 11th, 2019 when the professional services contract was finalized.

Staff Recommendation:

Provide feedback on suggested next steps.

URAC Roles, Responsibilities, and Communication

Chair Trumbull and Committee Member Behr have requested a general item to discuss and clarify the committee's functions. A copy of the Urban Renewal Agency resolution establishing the committee as well as a legal primer on committee communications as it relates to public meeting laws is attached to aid in the discussion.

The Urban Renewal Agency is committed to facilitating an open, welcoming, and accessible environment for any individual or group to provide input on URA projects. The URAC is an integral part of this commitment as the group provides a direct link to the community. Communications can never be perfect within the context of limited resources, multiplying and fragmented communications channels (i.e. newspaper, word-of-mouth, web, social media, email, etc.), as well as diverse language and cultural needs, but the Agency strives for continual improvement.

Staff Recommendation:

Discussion item, no staff recommendation

Attachments

Attachment #1: Resolution 2012-18 URA Advisory Committee

Attachment #2: Memorandum, Committee Communications & Public Meetings Rules

Attachment #1

CITY OF HOOD RIVER URBAN RENEWAL AGENCY RESOLUTION 2012-18

(A RESOLUTION CREATING AN ADVISORY COMMITTEE OF THE URBAN RENEWAL AGENCY AND DEFINING MEMBERSHIP AND DUTIES OF THE COMMITTEE)

WHEREAS, the Hood River Urban Renewal Agency (Agency) is the duly appointed urban renewal agency of the City of Hood River, Oregon (City) pursuant to ORS Chapter 457;

WHEREAS, the Agency is required by its bylaws to appoint an Advisory Committee to provide advice to the Agency Board regarding the implementation of the Agency's urban renewal plans.

NOW, THEREFORE, BE IT RESOLVED that the Advisory Committee is hereby created to advise the Agency Board regarding implementation of the Agency's urban renewal plans. The composition of the Advisory Committee shall be as follows:

1. Membership: The Advisory Committee shall consist of seven (7) members: Six (6) of the members shall be from the public at large who are property owners in the City of Hood River, or registered electors residing within the City of Hood River for at least one year; One (1) member shall be a member of the City of Hood River Planning Commission (Planning Commission) and nominated by the Planning Commission.
2. Terms: Initially, two (2) of the members shall serve for a term of two years; two (2) members shall serve a term of three (3) years; and two (2) members shall serve for a term of four years. The member from the Planning Commission shall serve for a term of four years. Upon expiration of the initial terms, the members of the Advisory Committee will serve four-year staggered terms.
3. Meetings: Regular meetings shall be held by the Advisory Committee in compliance with ORS 192.610 et seq. All meetings shall be held within the City at a place and time determined by the committee by majority vote of the full committee. All meetings shall be open to the public and minutes taken and published, except that any meeting may be held in executive session if such session is in conformity with ORS 192.660.
4. Quorum: Four members of the Advisory Committee shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes, except as otherwise provided in this resolution.
5. Duties of the Committee: The committee is responsible for the following activities:

Review the urban renewal plans and provide recommendations to the Agency Board.

Recommend projects that are consistent with the urban renewal plans and prepare a prioritized list of potential urban renewal projects for the Agency Board.

Recommend to the Agency Board potential projects to be undertaken, public contracts to be awarded, potential plan amendments, and budget needs.

Advise the City Planning Commission and Agency Board on urban renewal area development standards.

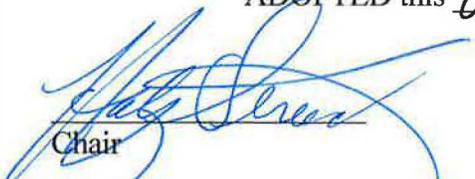
Make recommendations to the Agency Board regarding potential investments in public improvements and public/private development partnerships that will enhance the urban renewal areas and facilitate development of commercial and industrial portions of the urban renewal areas to create jobs and income which will provide economic support to the urban renewal areas.

Those who are registered electors will serve as members of the Agency Budget Committee.

Review all projects and expenditures proposed to the Agency Board to ensure such projects and expenditures are consistent with the Agency's adopted budget and the urban renewal plans.

Perform other tasks and duties as requested by the Agency Board.

ADOPTED this 24 day of May, 2012.


Chair

ATTEST:


Agency Administrator



CITY OF BEND

M E M O R A N D U M

To: Juniper Ridge Management Advisory Board
From: Mary Alice Winters, City Attorney
Subject: Open Meetings Law/Email Exchanges, Public Records and Minority Reports
Date: June 17, 2019

This memo is to give you legal and policy background for your role as a citizen advisory committee to the City Council and/or the Bend Urban Renewal Agency (BURA) on the Open Meetings and Records law. Some of you may know the basics already, but to be sure we are all on the same page, please review the discussion below.

Open Meetings Law and Advisory Committees:

This is the policy behind Oregon Public Meetings Law (ORS 192.610 to 192.690):

The Oregon form of government requires an informed public aware of the deliberations and decisions of governing bodies and the information upon which such decisions were made. It is the intent of ORS 192.610 to 192.690 that decisions of governing bodies be arrived at openly. ORS 192.620.

The term “governing body” is important in understanding the scope of Oregon Public Meetings Law. As defined by the law, “governing body” includes not only the City Council, but every other board, committee, commission, task force or subcommittee that makes a decision for the City or a recommendation to any other “governing body”. Since the Juniper Ridge Management Advisory Board (JRMAB) is charged with making recommendations to the City Council and/or BURA, it is considered a “governing body” subject to the Oregon Public Meetings Law. As long as an advisory body is itself a governing body, the fact that its members may be private citizens is irrelevant. The Oregon Public Meetings Law extends to private citizens without any decision-making authority when they serve on a group that is authorized to furnish advice to a public body.

Whenever a quorum (majority) gathers in order to make a decision or deliberate toward a decision on any matter, it is a meeting. If a subcommittee of the JRMAB is formed to make a group recommendation to the JRMAB (as opposed to simply fact-finding), the notice and quorum rules then apply to the subcommittee. However, purely social gatherings of the members of a governing body are not covered by the law. The *purpose* of the meeting triggers the requirements of the law.

Successive Conversations and Electronic Communications as “Meetings”.

The main point of the Oregon Public Meetings Law is to require that all decisions and deliberations toward a decision by a “governing body” be made in a public meeting. The terms “deliberate” or “deliberation” are not defined, but are broadly applied. Any discussion or communication regarding a subject that is before (or could be before) the committee constitutes deliberation. See Attorney General’s Public Meetings Manual at 139-40. Therefore, even a meeting for the purpose of gathering information to serve as the basis for a subsequent decision or recommendation of the governing body must comply with public meetings law.¹ *Oregonian Publishing Co. v. Oregon State Board of Parole*, 95 Or App 501 (1988); see also ORS 192.620 (policy that the public has the right to know the “information” that a body is basing its deliberations or actions on).

While some personal discussion between members of less than a quorum of a “governing body” is allowed, any communications between two members of a committee regarding a substantive matter before the committee creates some risk of an Oregon Public Meetings Law violation. There are two main ways this can happen. The first is a series of conversations that eventually involves a quorum of the body. If one member suggests a course of action to two other members of a seven-member committee, and then each of those has a follow-up conversation with another member, the conversation has now included a quorum of the committee and is an Oregon Public Meetings Law violation if the conversations constitute deliberation.

The other common way that the Oregon Public Meetings Law can easily be violated is by electronic communication. A substantive email sent by one member of a committee to all or a quorum of the committee may constitute deliberation or conveying of information that can only be done in a public meeting. A “reply all” message on the same substantive subject could likely be found to be a violation. A series of emails, even if none of them involve a quorum, may constitute a meeting. See *Dumdi v. Handi*, Findings of Fact and Conclusions of Law, Lane County Circuit Court No 16-02760 (Jan. 14, 2011) (series of meetings and emails among or at the direction of certain Lane County Commissioners constituted a meeting that should have been public). The Oregon Court of Appeals recently held that a series of communications, some by email and some by phone or in-person conversations, among members of a governing body

¹ This does not mean that there can be no written communications to a governing body by staff or outside sources; however, if there are, those communications need to be made available to the public and included as part of the record of the proceeding. However, any discussion or comment on those communications by members of the governing body must be in a public meeting.

could constitute a violation of the Oregon Public Meetings Law, even if no communication involved a quorum of the body. *Handy v. Lane County*, 274 Or App 644 (2015). If the communications constituted deliberation, then they violated Public Meetings Law.

In addressing the issue of whether a quorum needs to be in simultaneous contact, the court stated:

The legislative objective could be easily defeated if the statute rigidly applied only to contemporaneous gatherings of a quorum. For example, officials could be polled through an intermediary. In group email messages, officials could deliberate and declare their positions on upcoming issues. The same could be done through rapid, serial, group text messages in the moments before convening for an official meeting. In those examples, a quorum would have “deliberated” or “decided” the matter in “private” just as effectively as if all of the members had gathered secretly in a room and reached agreement before the public meeting. Given the purpose of the statute, we see no reason to treat those situations differently. *Oregonian Publishing Co.*, 95 Or App at 506.

The safest approach to compliance with the Oregon Public Meetings Law by committee members is to simply avoid substantive communication about committee business with other members of the committee outside of public meetings. Communication with staff is normally not a violation of public meeting law,² so all substantive communication should be with staff.

Finally, emails are not the only potential means of violating the Oregon Public Meetings Law – texts and social media posts may also constitute deliberation if related to the recommendation to council. Discussions via social media between members of the committee about matters before the committee is also best avoided.

Decisions made in violation of the public meetings law are voidable (meaning a court can invalidate the decision, depending on findings of intent or willful misconduct) and can award attorney’s fees against the public body or even the members of the governing body for egregious violations.

Information for Advisory Committees and Public Records

Information. Documents, reports, etc., shared by committee members either directly or through staff are public records since they contain “information related to the conduct of the public’s business”. ORS 192.410(4)(a) and 192.420. All email related to the committee work should be copied to City staff. Staff will maintain copies of all communications and documents between the City and the committee, and respond in the event of a public records request.

² Committee members cannot use staff to communicate with other members of the committee – the communications should be directed solely to staff.

However, if any committee members use personal email for committee business that is *not* copied to staff, it could be subject to a public records request and the committee member would be responsible for searching their email. Therefore, any such personal email exchanges between committee members or with the citizens is strongly discouraged. The same is true for texting (substantive text, not texts about meeting times, etc.) or social media.

Public records must be maintained. Destruction of public records is a misdemeanor. If you do communicate about committee business, you must keep copies of all communications. By copying staff on all communications, we can ensure the records are properly maintained.