

Minutes for the Climate Policy Commission

September 12, 2019

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**MINUTES FOR THE CLIMATE POLICY COMMISSION**

September 12, 2019 4 to 6 p.m.

Siskiyou Room, 51 Winburn Way

**1. Call to Order**

Chair Tonya Graham called the meeting to order at 4:00 p.m. Graham introduced the agenda and the expectations of the meeting. Commissioners present included Rick Barth, Julian Bell, Christopher Brown, Allie Coleman, Zander Huston, Ray Mallette, Gary Shaff, and Les Stone. Commissioner Talia Shea was absent. Staff Liaisons Stu Green and Adam Hanks were also present.

**2. Consent Agenda**

None

**3. Announcements**

3.1. Welcome and Introductions

- How do you know you are home in Ashland and why have you decided to serve on this Commission?

Commissioners took turns speaking about how they know they are home in Ashland and why they have decided to serve on this Commission.

*Chris Brown arrived at 4:11 p.m.*

3.2. Regular Meeting Schedule Discussion

Graham moved this item to the first item under New Business.

**4. Public Forum** to be evenly divided by public wishing to speak

Larry Cooper – Thanked the Commissioners for volunteering to help get Climate Policy moving forward in Ashland. He emphasized his issues with the proposed plan for the Water Treatment Plant; no Greenhouse Gas (GHG) or other emissions data were incorporated. Cooper requested that the Commission ask for the plan to be delayed, so that emissions and climate data can be included (see attached).

Huelz Gutcheon – reminded the Commission of the Climate Strike starting at 11 a.m. on Friday, September 20 in the Plaza. He also reminded the Commission that Climate and Energy Action Plan (CEAP) requires City Departments to inform their staff of CEAP actions and incorporate its goals. He asked the Commission to start looking at an Electric Vehicle (EV) ready wiring Ordinance that would require all EV wiring for all new constructions and separate Ordinances that would ban new natural gas connections to buildings and enact a 20 mph speed limit throughout town.

JoAnne Eggers– stated that the Commissions work is honored and valued. She also emphasized the City's role in implementing CEAP throughout their operations.

Angelina Cook – stated that many Ashland neighbors are looking to the Commission to do something meaningful about Climate Change. She understands that there are some discrepancies between the Capital Improvements Projects and Climate planning, but those needs to be acknowledged and reduced.

**5. Reports/Presentations**

5.1. Review and Discussion of Powers and Duties and Scope

Hanks introduced how the Climate Policy Commission was created in its relation the Conservation and Climate Outreach Commission. The Conservation and Climate Outreach Commission will focus on outreach and education while the Climate Policy Commission will focus on more policy and updating of CEAP documents.

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Mallette asked how the Commission should view CEAP. Hanks stated that some elements, especially the implementation, are flexible, but other elements that are enacted by Ordinance must be changed by approval by Council.

## *5.2. Public Records and Meeting Law*

David Lohman, City Attorney, spoke and gave a presentation on Public Meeting, Public Records, and Ethics Law (see attached). Lohman clarified that the presentation was created for Council and that this Commission's quorum is five people and 36 hours is needed for noticing a meeting. He passed out disclosure statement for stating potential or actual conflicts in meetings (see attached).

## **6. Old Business**

None

## **7. New Business**

Graham announced that Commissioners should save all discussion and deliberation for the meetings. If a Commissioner needs to inform the Commission of an item before the meeting, they can send it to staff or the Chair who will then bcc the rest of the Commission. The group will eventually set up working groups and sub-committees. Rules regarding both will be addressed when either are created.

### *7.1. Regular Meeting Schedule Discussion*

The Commission agreed to keep the regular schedule as the second Thursday from 4 to 6 p.m. Graham asked if the Commission would be willing to meet two more times in September and October for strategic planning. The Commission agreed to also meet on the fourth Thursday from 4 to 6 p.m. for September and October.

### *7.2. Annual Work Plan Discussion*

Graham handed out a work plan for the Commission (see attached) and asked the Commission if they wanted to focus on the plan review and update or focus on implementation. Five items were addressed and included on the hand out (1) monitoring progress toward GHG goals, (2) make implementation recommendations for the City and the community, (3) make policy, rules, and process recommendations to the City, (4) recommend changes to benchmarks and targets as needed, and (5) update the CEAP as necessary. Graham also announced that the CEAP review is scheduled for March 2020, but asked if the review could be moved to September 2020 to align with the anniversary creation of the Climate Policy Commission. Green stated that it is possible as the plan was adopted in March 2017, but Ordinance 3145, an Ordinance Establishing Greenhouse Gas and Fossil Fuel Reduction Goals and Targets for Community and City Operations, was approved in September 2017.

Discussion surrounded:

- Whether or not to continue with the review in March or focus on implementation;
- Action level benchmarks and targets (e.g. "we want x amount of Electric Vehicle (EV) charging in x amount of time);
- A request from staff of what has been happening, what is currently happened, and various hopes and expectations from the Commissioners;
- Looking into a similar ban on new Natural Gas connections as was recently passed in the City of Berkeley; and
- Creating working groups to proceed with tasks.

Graham brought for discussion a subject outlined in Public Forum and asked if the Commission would like to request the City Council direct staff for more information on climate emissions for construction and maintenance for the proposed Water Treatment Plant. Hanks stated that the Conservation Commission, recognizing that the Climate Policy Commission (CPAC) might not have time to respond, requested staff to draft a letter on their behalf to Council. The letter will state that a GHG emissions

analysis with CEAP goals be taken into consideration for the contract approval for the Water Treatment Plant final engineering acknowledging that CPAC has not started meeting. Some issues discussed were:

- If the proposed Water Treatment Plant size has taken into consideration new figures for water conservation;
- If a Fossil Fuel analysis could be taken into consideration for the project as well as a social cost; and
- If a staff presentation from the Public Works Department should be given to the Commission for more information.

Bell/Barth moved to request that the Council postpone their final decision on the Water Treatment Plant until a more detailed assessment of a GHG footprint for the proposed plan is taken. Further Discussion: none. All voted in favor and the motion passed unanimously.

7.3. What background information and documents (e.g. master plans, policy documents, etc.) would you like to have copies of?

Shaff was interested in a recent study of cycling and GHG emissions as an alternative mode of transportation. Graham asked him to find the study for future use by the Commission. Barth asked for the long term plan for the Electrical Utility. Also requested was the Water Treatment Plant plans when available to Council and top tier efforts for CEAP.

Bell moved to ask Council to ban Natural Gas connections on new constructions. Graham stated that the meeting was out of time, but this issue can be brought up later in strategic planning. With no second, due to lack of time, the motion died.

#### *7.4. Homework for October Meeting*

- Which ten climate actions do you feel are most urgent for this Commission to address? Please list in priority order. Please use identified CEAP actions if possible (see [CEAP document](#), page 120)

Moved to next meeting due to lack of time.

#### *7.5. Election of Vice Chair*

Moved to next meeting due to lack of time.

### **8. Wrap Up**

#### *8.1. Items to be added to next agenda*

Meeting adjourned by Chair Graham at 6:01 p.m.

Respectfully submitted,  
Elizabeth Taylor, Executive Assistant

Remarks to the first meeting of the Climate Policy Commission:

Thank you for stepping up to take responsibility for climate policy for Ashland. Your job is very important. Unfortunately, the process of setting up the CPAC has been slow and drawn out resulting in at least one major MISS for the city. At the same time that the CEAP was being developed and adopted by the City, there was also an ongoing planning process for capital improvements for our water system. The resulting plan for the water treatment plant or WTP was just completed and the City Council will be asked within possibly days to adopt the plan and appropriate the money to move forward. This \$35 million plus project is the largest capital improvement on the city's docket and sadly, the project planning did not include the impact of climate change and greenhouse gas emissions when planning for both capacity and construction design. This is contrary to the city's own climate policy, and here we are finally with a climate commission a few minutes too late to inform a very large city project as is required by the CEAP.

What to do? I implore you to request that City Council and staff take a step back and revise the WTP plan to include climate and GHG emission impacts from the project. This can definitely be done, even at this late hour. I know this is a difficult question, but here we have a chance to do something RIGHT by slowing down a bit. The water plan was previously pulled back at the request of the Public Works Director to consider the impact of the TAP water. We need to pull the current plan back in order to consider climate impact on this very large project.

Feel free to contact me at 541 210-1458



**PUBLIC MEETING LAW**

**PUBLIC RECORDS LAW**

**OREGON ETHICS LAW**

# What is the law?

- ▶ ORS 192.620: “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.”
- ▶ ‘A quorum of a governing body may not meet in private for the purpose of deciding on or deliberating toward a decision on any matter except as otherwise provided by ORS 192.610 to 192.690”
- ▶ Note: Public Participation does not always mean public conversation

# What is a meeting?

- ▶ Any instance where a quorum (4 or more) members are discussing / deliberating toward a decision
- ▶ This includes:
  - ▶ Standard meetings where a quorum is present (4 or more)
  - ▶ Electronic meetings (Emails, IMs, Texts, Social Media)
  - ▶ Serial discussions
  - ▶ Hub discussions
- ▶ Does NOT include Social Gatherings

# Procedural requirements for meetings

- ▶ Public notice at least 72 hours in advance  
*(Agenda)*
- ▶ Space, location, accessibility and attendance  
*(Meeting location must be accessible to all public)*
- ▶ Voting *(Decisions must be made and recorded)*
- ▶ Records *(Minutes, audio or video recording)*

# Executive Sessions

- ▶ No final decisions; tentative decisions OK
- ▶ Examples:
  - ▶ Consultation on labor negotiations
  - ▶ Consultation on litigation
  - ▶ Real property transactions
  - ▶ Performance evaluations

# Practical Tips for Meetings

- ▶ Avoid exchanges of opinions with more than two other Councilmembers on items the Council may vote on
- ▶ Avoid conversations (in person or via email) between Councilors where the views of fellow Councilors are shared
- ▶ Think before replying to emails when City business information is shared
  - ▶ Use BCC
  - ▶ To request more information on item, ask Staff who will prepare for all agency members

# Public Records Law

- ▶ Regulated by State of Oregon - Department of Justice
- ▶ Crime of tampering with public records:  
Knowingly and without authority destroying, mutilating, concealing, removing, or making a false entry in or falsely altering any public record. ORS 162.305.



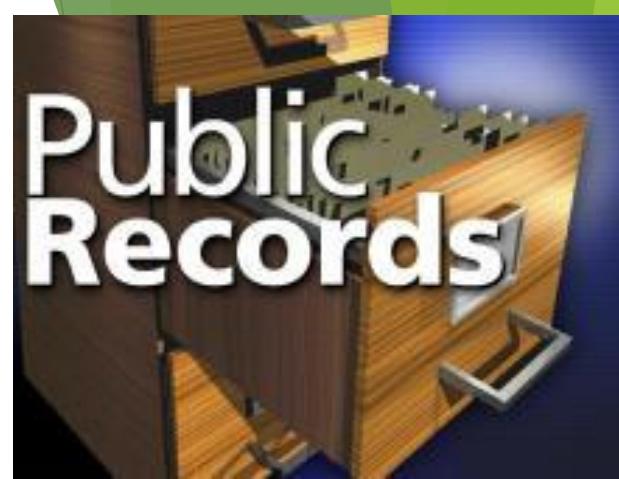
# What Is A Public Record?

- ▶ Any document that contains public business information that is prepared, owned, used or retained by a public body regardless of physical form or characteristics
- ▶ Emails, formal letters, photos, handwritten notes taken during meetings, napkin drawings, etc.
  - ▶ Generally, all emails you send or receive, all documents you create or receive in the course of your official position, and all calendar entries and notes.
  - ▶ Emails relating to City business sent from or to a personal/home email are considered public records.



# What Do I Need To Keep?

- ▶ Generally, all records, electronic or hard copy, relating to public business.
- ▶ You do not need to keep:
  - ▶ Multiple copies of records
  - ▶ Copies of records which are unquestionably retained in City storage systems
  - ▶ Messages on voicemail or in other telephone message storage and retrieval systems.



# Practical Tips on Public Records



- ▶ Avoid using personal email or personal computer for City-related electronic communications
  
- ▶ If using personal email or personal computer for City-related communications, always CC or BCC pertinent City staff person, so that the City electronic file system retains the communication.

# Oregon Government Ethics Law

- ▶ ORS Chapter 244
- ▶ Administered by Oregon Government Ethics Commission

# Underlying Principles

- ▶ Public officials should not be receiving any significant economic benefit by virtue of their position beyond what is available to the general public.
- ▶ Individuals, corporations or others cannot entice public officials with free goods or services

# Who Is Considered A Public Official?

- ▶ ORS 244.020(14): “Any person who, when an alleged violation of this chapter occurs, is serving the State of Oregon or any of its political subdivisions or any other public body as defined in ORS 174.109 as an elected official, appointed official, employee or agent, irrespective of whether the person is compensated for their services.”
- ▶ Includes elected & appointed officials, employees, members of boards and committees and volunteers

# Prohibited Use of Office (ORS 244.040(1))

- ▶ A public official may not use or attempt to use official position or office for:
  - ▶ Personal gain, financial gain or avoidance of financial detriment
- ▶ Applies to?:
  - ▶ You, a relative, or a member of your household (“MOH”) and any business with which you a relative or a MOH is associated
- ▶ Exclusion:
  - ▶ When the financial gain or avoidance of financial detriment would be available even if you were not a Councilmember

# Financial Gain: General Rule

ORS 244.040(1)

- ▶ Prohibits use or attempted use of position or office to obtain financial gain that would not otherwise be available, but for the position or office
- ▶ Avoidance of financial detriment is also “financial gain”
- ▶ Use of equipment/resources owned by government for personal purposes is prohibited by this provision
  - ▶ Examples: computers, vehicles, tools, equipment, discounts

# Gift Definition and Rule

## ► Definition

- ▶ Something of economic value;
- ▶ Offered to you, your relative or your MOH;
- ▶ Without cost or at discount or as forgiven debt;
- ▶ The same offer is not made or available to the general public.

## ► Rule

- ▶ You (as well as your relative or household member) cannot ask for or receive gifts over \$50 in value from any single source in a calendar year...
- ▶ When the source has a “legislative or administrative interest,” distinct from that of the general public, in any matter subject to your decision or vote.

# Conflict of interest

## ORS 244.020(1) Definition:

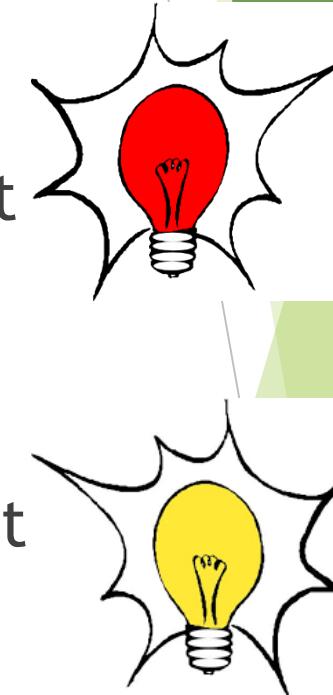
- ▶ Any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private financial benefit or detriment of the person or the person's relative or any business with which the person or relative of the person is associated.

# Conflict of Interest: General Rule

- Elected public officials and members of boards or commissions
  - Must publicly announce potential conflicts of interest before taking action
  - Must publicly announce actual conflicts of interest and refrain from discussion, debate, or voting on the issue out of which the actual conflict arises and refrain from participation
  - In either case, you must provide a brief explanation of the source of the conflict. (Just stating that you have a potential or actual conflict is not sufficient.)

# Two Types Of Conflicts - State

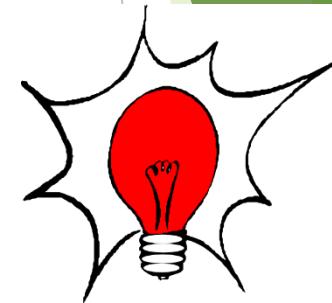
- ▶ Actual Conflicts
  - ▶ Would result in financial benefit or detriment
- ▶ Potential Conflicts
  - ▶ Could results in financial benefit or detriment



# Two Types Of Conflicts - City

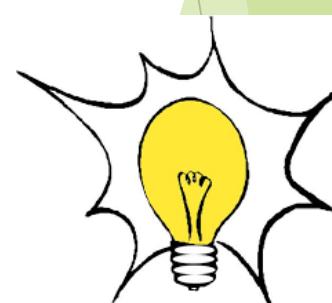
## ► Actual Conflicts

- Would impair your independence of judgment due to personal interests, whether they are financial in nature or not.



## ► Potential Conflicts

- Could impair your independence of judgment due to personal interests, whether they are financial in nature or not.



# How to deal with an actual & potential conflict

## When in doubt: Shout it Out!

- ▶ State the nature of your conflict
- ▶ Do it before voting or discussing the manner
- ▶ Do it on the record
- ▶ Do it each meeting the issue is discussed



# If Actual Conflict of Interest

In addition to declaring and explaining the conflict:

- ▶ No participating in discussion and No voting
- ▶ It is recommended you leave the room during agenda item

**DISCOLOSURE STATEMENT CONCERNING  
POTENTIAL INFLUENCE OF PERSONAL CONSIDERATIONS**

As you may know, I [or my family member] \_\_\_\_\_ [own? manage? work for?] the \_\_\_\_\_ [business or nonprofit entity]. I believe there is no more than a remote, conjectural possibility that any action on this agenda item [on the agenda for tonight's meeting] would have a positive or negative financial impact on me, my family or \_\_\_\_\_ [business or nonprofit entity identified above].

//Depending on the potential for public misunderstanding, you may want to explain why financial consequences are unlikely.// Nevertheless, I openly acknowledge and disclose those private roles and interests, and declare that I will strive to, and believe I am able to, exercise independent, objective judgment on this agenda item [the matters before this body today], making the public interest my primary concern regardless of personal considerations.

**ABBREVIATED STATEMENT FOR SUBSEQUENT DISCLOSURES BY OTHER PARTICIPANTS  
AT THE SAME MEETING**

I want to make the same public acknowledgment, disclosure, and commitment, except that the private interest I want to make plain is that I [or my family member] \_\_\_\_\_ [own? manage? work for?] the \_\_\_\_\_ [business or nonprofit entity]. //Depending on the potential for public misunderstanding, you may want to explain why financial consequences are unlikely.//

# Climate Policy Action Commission

