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