



CITY OF OREGON CITY PLANNING COMMISSION AGENDA

**Commission Chambers, Libke Public Safety Building, 1234 Linn Ave, Oregon City
Monday, January 22, 2024 at 7:00 PM**

REGULAR MEETING OF THE PLANNING COMMISSION

Ways to participate in this public meeting:

- *Attend in person, location listed above*
- *Register to provide electronic testimony (email ocplanning@orc.org or call 503-722-3789 by 3:00 PM on the day of the meeting to register)*
- *Email ocplanning@orc.org (deadline to submit written testimony via email is 3:00 PM on the day of the meeting)*
- *Mail to City of Oregon City, Attn: City Recorder, P.O. Box 3040, Oregon City, OR 97045*

CALL TO ORDER AND ROLL CALL

CEREMONIES

Oath of Office for new Planning Commissioner- Brandon Dole

PUBLIC COMMENT

Citizens are allowed up to 3 minutes to present information relevant to the Planning Commission but not listed as an item on the agenda. Prior to speaking, citizens shall complete a comment form and deliver it to the Chair/City Staff. The Commission does not generally engage in dialog with those making comments but may refer the issue to the City Staff. Complaints shall first be addressed at the department level prior to addressing the Commission.

MEETING MINUTES APPROVAL

1. Meeting Minutes for January 8, 2024

PRESENTATIONS

2. Jerry Herman and Bob LaSalle presentation on Land Use Planning Legacy in 1970s and 1980s in Oregon
3. Planning Commissioner Legal Training

PUBLIC HEARING

DISCUSSION ITEMS

4. Planning Commission Work Plan 2024

COMMUNICATIONS**ADJOURNMENT**

PUBLIC COMMENT GUIDELINES

Complete a Comment Card prior to the meeting and submit it to the City Recorder. When the Mayor/Chair calls your name, proceed to the speaker table, and state your name and city of residence into the microphone. Each speaker is given three (3) minutes to speak. To assist in tracking your speaking time, refer to the timer on the table.

As a general practice, the City Commission does not engage in discussion with those making comments.

Electronic presentations are permitted but shall be delivered to the City Recorder 48 hours in advance of the meeting.

ADA NOTICE

The location is ADA accessible. Hearing devices may be requested from the City Recorder prior to the meeting. Individuals requiring other assistance must make their request known 48 hours preceding the meeting by contacting the City Recorder's Office at 503-657-0891.

Agenda Posted at City Hall, Pioneer Community Center, Library, City Website.

Video Streaming & Broadcasts: The meeting is streamed live on the Oregon City's website at www.orcity.org and available on demand following the meeting. The meeting can be viewed on Willamette Falls Television channel 28 for Oregon City area residents as a rebroadcast. Please contact WFMC at 503-650-0275 for a programming schedule.



CITY OF OREGON CITY PLANNING COMMISSION MINUTES - DRAFT

Commission Chambers, Libke Public Safety Building, 1234 Linn Ave, Oregon City
Monday, January 08, 2024 at 7:00 PM

REGULAR MEETING OF THE PLANNING COMMISSION

CALL TO ORDER AND ROLL CALL

Chair Stoll called the meeting to order at 7:00 PM.

Present: 7 – Chari Stoll, Vice Chair Dirk Schlagenhauser, Commissioner Daphne Wuest, Commissioner Paul Espe, Commissioner Karla Laws, Commissioner Bob LaSalle, Commissioner Chris Staggs

Staffers: 3 – Community Development Director Aquilla Hurd-Ravich, Planning Manager Pete Walter; Deputy City Attorney Carrie Richter

ELECTION OF OFFICERS

Clarification was asked from Chair Stoll regarding Commissioner Staggs being in attendance when his term was completed in December. Community Development Director Hurd-Ravich explained that it has been the City's practice to allow a Commissioner to stay in a position until the position is filled. Deputy City Attorney Richter confirmed this practice.

A nomination was made by Vice Chair Schlagenhauser and seconded by Commissioner Wuest to make Commissioner Stoll the Chair for 2024. The motion carried by the following vote:

Yea: 6 - Commissioner Wuest, Commissioner Espe, Commissioner Laws, Commissioner Staggs, Commissioner Schlagenhauser, Commissioner Stoll

Nay: 1 – Commissioner LaSalle

A nomination was made by Commissioner LaSalle and seconded by Commissioner Staggs to make Commissioner Espe the Vice Chair for 2024. The motion carried by the following vote:

Yea: 7 – Commissioner LaSalle, Commissioner Wuest, Commissioner Espe, Commissioner Laws, Commissioner Staggs, Commissioner Schlagenhauser, Commissioner Stoll

PUBLIC COMMENT

None.

MEETING MINUTES APPROVAL

1. Planning Commission Minutes Approval for December 11, 2023.

A motion was made by Commissioner LaSalle, seconded by Commissioner Staggs to approve the meeting minutes with the correction to show Chair Stoll only as ‘absent’ and Vice Chair Schlagenhauser as present. The motion carried by the following vote:

Yea: 7 - Commissioner LaSalle, Commissioner Wuest, Commissioner Laws, Commissioner Staggs, Commissioner Schlagenhauser, Vice Chair Espe and Chair Stoll

PUBLIC HEARING

2. GLUA-23-00039 / ZC-23-00004: Zoning Text Amendment to I - Institutional District

Director Hurd-Ravich and Deputy City Attorney Richter explained the difference between the Legislative and Quasi-Judicial decisions and why this is coming in as a Quasi-Judicial proceeding.

Planning Manager Pete Walter gave the presentation for the Zoning Text Amendment to change the wording to 17.39.030 Accessory uses. Adds “F. A city-managed recreational vehicle park for Clackamette Park.”

Discussion followed about definitions of recreational vehicles and what “city-managed” means. There were some other concerns mentioned, but they are items that would be handled by Parks and not items to be addressed with this code amendment.

A motion was made by Commissioner LaSalle, seconded by Commissioner Laws to approve the GLUA-23-00039/ZC-23-00004 Zoning Text Amendment to I Institutional District.

Discussion followed about a concern seeing this as a monopoly by the City. Director Hurd-Ravich explained it would take a year to provide for additional recreational vehicle park code for private development.

Original motion was withdrawn by Commissioner LaSalle.

A motion was made by Commissioner Schlagenhauser to approve the GLUA-23-00039/ZC-23-00004 Zoning Text Amendment to I Institutional District with a condition that the City pursues recreational vehicle zoning amendments to appropriate places in the city. Commissioner LaSalle seconded the motion.

Commissioner Wuest wanted to see the two issues separated and only revise the wording to remove “city-managed and not include a condition to the motion.

Commissioner Schlagenhauser rescinded his motion.

A motion was made by Commissioner Staggs, seconded by Commissioner Espe to approve the GLUA-23-00039/ZC-23-00004 Zoning Text Amendment to I Institutional District with the revision to remove “city-managed” from the wording.

The motion carried by the following vote:

Yea: 7 - Commissioner LaSalle, Commissioner Wuest, Commissioner Laws, Commissioner Staggs, Commissioner Schlagenhauser, Vice Chair Espe and Chair Stoll

There was further discussion and there was a consensus from the Planning Commissioners to request City Commission to direct Planning Staff to investigate and research what a legislative amendment would look like to add text to zoning areas where it would be appropriate in the City which would allow private developers to have short-term and non-residential recreational vehicle parks.

COMMUNICATIONS

There will be a meeting on January 22 that will include a presentation from Jerry Hermann and Doug Neally, legal training and with some Planning Commission Work Plan discussion.

ADJOURNMENT

Chair Stoll adjourned the meeting at 8:08 PM.



CITY OF OREGON CITY

Staff Report

625 Center Street
Oregon City, OR 97045
503-657-0891

To: Planning Commission **Agenda Date:** 01/17/2024
From: Aquilla Hurd-Ravich, Community Development Director

SUBJECT:

Jerry Herman and Bob LaSalle presentation on Land Use Planning Legacy in 1970s and 1980s in Oregon

EXECUTIVE SUMMARY:

Jerry Herman and Bob LaSalle had a conversation with Planning staff in December 2023. The conversation centered on the origination of land use planning in Oregon and who was important in those efforts. We discussed what land use planning looks like today and what has changed. They asked to provide this information to the Planning Commission.

Jerry Herman and Bob LaSalle will give a presentation and there will be time for discussion following the discussion.

Land Use Planning Legacy of the 1970's and 1980's

Presentation: By Jerry Herrmann and Bob LaSalle

Governor Tom McCall had a broad past of political and leadership involvement and loved Oregon. He never wanted to see Oregon lost to industries, development, and destruction of farms, forests, and natural areas. He put in place a process through Cabinet Members who had expertise in various areas to get the job done. He involved all parties, including Independents because he wanted to lead through compromise to conclusions that would benefit everyone.

This program will overview his Cabinet Members and people who made a difference. It will give examples of his concerns:

- Loss of farm and agriculture lands
- Loss of forest lands, including improper practices
- Freeways in Oregon who his staff guided should not allow development to go "pell-mell"
- Oregon's beaches were for everyone, not for private development
- Litter was his big enemy. He founded the bottle bill-that founded recycling

THESE THINGS ARE FIRST IN AMERICA AND OREGON RECEIVED CONDONATION AS WELL AS CONGRATULATIONS. HIS EFFORTS WERE REPEATED NATIONALLY BY FOLLOWING PRESIDENTS.

Governor Tom McCall's Cabinet Members

Stafford Hansel

Hogs/Ranching Agriculture

L.B. Day

Jimmy Hoffa of Oregon

Hector McPherson

Grass Seed Farmer and First Land Use Planning

Ed Westerdahl

Military Intelligence and McCall's Chief of Staff

Glenn Jackson

Medford Timber and Agriculture and First Head Oregon Highway Commission

Bob Straub

State Treasurer and Secretary of State; Governor McCall put him in charge of "Greenways"

Victor Atiyeh

Governor; Celebrated the work of Tom McCall, was interested in opening up Oregon to clean industries

John Innskeep

First Federal Extension Agent and Oregon Senate Member; Hunted and flyfished with friend, Governor Atiyeh

Mark O. Hatfield

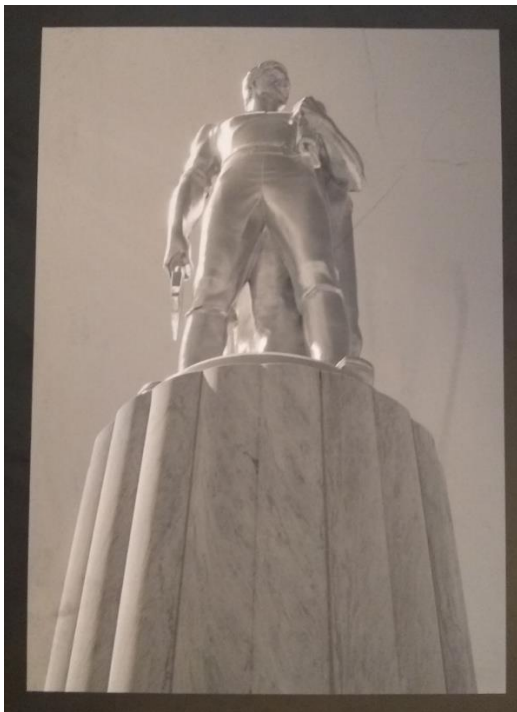
Governor of Oregon from 1959-67; United States Senator; Embraced the first-time land use planning in America of Governor McCall as US Senator



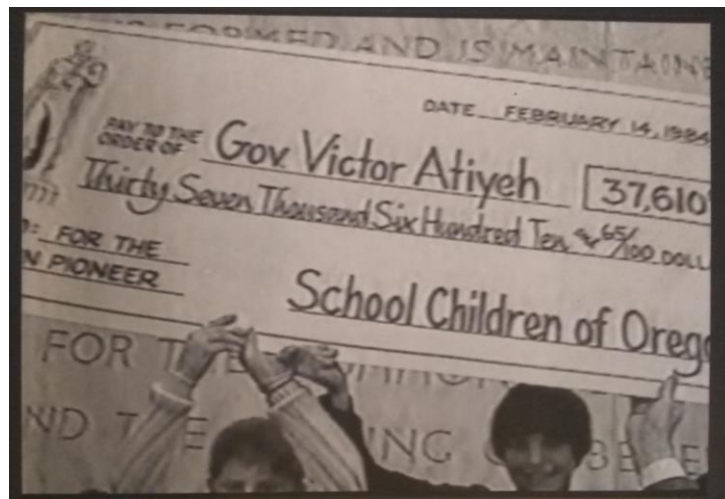
Tom McCall
Oregon Secretary of State (1965-67) & Governor (1967-75)
United States Navy Veteran at aged 31; Writer,
award-winning journalist and TV Commentator



Governor met little Jenny Borden from Salem. She
wanted to make Oregon's Pioneer Man look better.
Jennifer aged 10 is now a career teacher in Oregon City



Governor cared about every detail... little
Jenny wanted the man on the Capitol Tower
To look good again



To her father's disbelief, challenging her to get her school to
contribute a dime or so from each student raised \$37,610.00.
Governor Victor Atiyeh had to receive the check which to this day
keeps the man looking good

December Meeting with Planning Director and her Staff

Bob LaSalle and Jerry Herrmann presented legacy of Tom McCall and many who worked with land use planning circa 1970's/1980's; Bob LaSalle posed these questions to Planning Staff; he will discuss these questions.

- 1. Recent land use legislation was discussed and it was noted that we have to work with what we have.**
- 2. Entry-level homes are now represented by multi-family dwellings rather than detached homes.**
- 3. It was recommended that consultation with builders/developers be solicited to determine how we can work with them and understands each other's challenges and objectives. People need to express what they are passionate about, try to build coalitions, and work together.**
- 4. Variable SDC's were mentioned, possibly based on dwelling sizes.**
- 5. Possible meeting with the Oregon City Business Alliance might be productive.**
- 6. We should look at what other jurisdictions are doing in regard to land use issues. It was noted that Oregon City has topographic challenges that most other cities do not.**
- 7. Further meetings were welcomed by all.**



CITY OF OREGON CITY

Staff Report

625 Center Street
Oregon City, OR 97045
503-657-0891

To: Planning Commission **Agenda Date:** 01/17/2024
From: Aquilla Hurd-Ravich, Community Development Director

SUBJECT:

Planning Commissioner Legal Training

STAFF RECOMMENDATION:

Participate in a presentation from Assistant City Attorney, Carrie Richter on the legal parameters of being a Planning Commissioner

EXECUTIVE SUMMARY:

Planning Commissioners are decision makers who must weigh policy options considering the values of the community and evaluate code criteria. The process of Planning and decision making is bound by codes, rules, and regulations. There are rules that govern what Planning Commissioners can consider, how they can use the information, and what mitigating measures they can impose. This presentation will give a broad overview of the parameters within which the Planning Commission operates.

BACKGROUND:

This presentation will generally cover:

- Planning as a process
- Roles and Responsibilities
- Types of land use decisions: such as Administrative, Quasi-judicial, and Legislative
- The connection between conditions of approval and the impact of the proposal
- Effective participation



CITY OF OREGON CITY

Staff Report

625 Center Street
Oregon City, OR 97045
503-657-0891

To: Planning Commission **Agenda Date:** 01/17/2024
From: Aquilla Hurd-Ravich, Community Development Director

SUBJECT:

Planning Commission Work Plan 2024

STAFF RECOMMENDATION:

Staff recommends Planning Commission discuss topics they would like to address this calendar year 2024.

EXECUTIVE SUMMARY:

In the fall of 2023 several topics of interest were brought up by Planning Commissioners. Rather than discuss topics haphazardly as they came up and, in an effort, to focus the Planning Commission's efforts and time, the suggestion was made to develop a work plan. In years past the Planning Commission had work plans to focus their efforts. Tonight's discussion will focus on topics of interest that at least 4 Planning Commissioners (a majority) wish to discuss further. Staff will bring back these topics at the next meeting for prioritization and to identify what question the Planning Commission seeks to answer or what problem there is to solve.

Topics that have been raised thus far include:

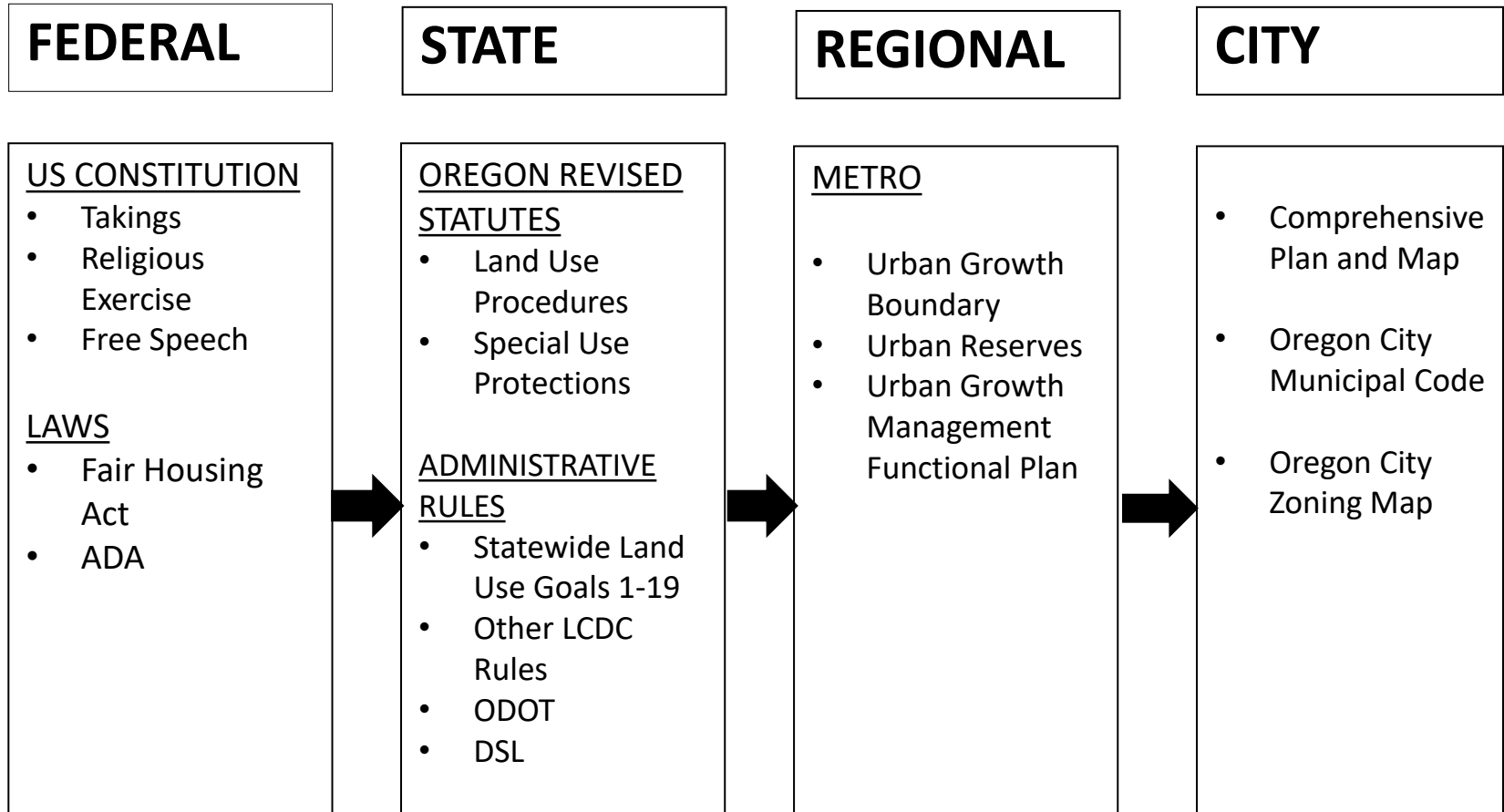
- Infrastructure funding that can support housing development
- Employment lands in the City and how to promote the development of those areas
- Transportation funding for new roads through training and/or information
- Molalla/7th Street view corridor protection looking west toward to West Linn
- Commercial uses on the first/bottom/ street level floors with residential above along the Mixed-Use Commercial area on Molalla
- Attracting/ increasing activity on Molalla Ave

CITY OF OREGON CITY PLANNING COMMISSIONER TRAINING

January 22, 2024

By Carrie A. Richter

OREGON'S LAND USE PLANNING FRAMEWORK



LAND USE PLANNING IN OREGON CITY:

Long-Range Planning: *(Legislative)*

- Involves adoption of regulations and policies applicable Citywide or to a specific geography
- City Commission makes the final decision
- Follows a legislative process – no bias and ex parte limitations

Development Review: *(Quasi-judicial /Administrative)*

- Reviewing a discrete development proposal for compliance against an adopted set of criteria
- Planning Commission is the final decision-maker, unless appealed
- Follows a formal quasi-judicial procedure

REVIEW CATEGORIES IN OREGON CITY:

Administrative Decisions – Lot line adjustments and building permits

- **Type I Staff decision** – No discretionary decision-making and no notice, hearing or appeal.

Quasi-Judicial Decisions – Land divisions, design review, historic review, conditional use and variances

- **Type II Staff decision / appeal to Commission** – Limited discretion in decision-making. Notice to neighbors, written comment, Director decision, and appeal rights to the City Commission.
- **Type III Planning Commission /HRB decisions** – Discretionary review to determine compliance with criteria. Notice, public hearing by Planning Commission or Historic Review Board, and appeal rights to the City Commission.
- **Type IV Planning Commission but if denied, right to appeal to Commission** – Typically, plan amendments and zoning map amendments applied to particular property. Notice, public hearing by Planning Commission with recommendation and final decision by the City Commission.

TYPE III DECISION PROCEDURE:

PREDICTABILITY AND A LEVEL PLAYING FIELD

- Pre-application meeting w/ staff / neighborhood meeting
- Application filed and completeness review – 120-day decision limit
- Mailed and posted notice of hearing includes identification of the applicable criteria – These notice rules are set by state law and local code
- Staff report available 7 days in advance of hearing.
- Hearing
 - Must including legal disclosures including:
 - Instructions on the submittal of evidence into the record
 - Testimony must be directed to the criteria.
 - Raise it or waive it
 - Failure to raise constitutional issues precludes an action for damages in circuit court.
 - Right to an impartial tribunal.
- Right to a continuance / Rebuttal
- Record closes, deliberation and decision
- Right to appeal to City Commission with review that is on the record

120-DAY RULE REQUIREMENTS

ONCE APPLICATION IS COMPLETE, CITY HAS 120 DAYS TO MAKE ITS FINAL DECISION

- Applicant controls completeness
 - Can force City to begin processing application
 - Once an application is “deemed” complete, only question is whether applicant has met its burden to show compliance with criteria
- Entire application, including appeals, must be resolved within 120 days
- Applicant can extend the 120-day, but entirely their choice
- If anyone requests, Commission must grant continuance or open record
 - If continued, next hearing must be at least 7 days later
 - If open record, 7-7-7 process is typically used.
 - Applicant always has last word:

“Unless waived by the applicant, the local government shall allow the applicant at least seven days after the record is closed to all other parties to submit final written arguments in support of the application.”

TYPE III: REVIEW ROLLS & RESPONSIBILITIES

<u>Applicant:</u>	<u>Planning / Legal Staff:</u>	<u>Neighborhood Groups/ Others:</u>	<u>Decision Maker:</u>
<ul style="list-style-type: none">• Understanding of the applicable approval criteria.• Submittal of an application that includes evidence establishing that the applicable approval standards are satisfied.• Respond to all arguments and evidence presented during review.• Bears the burden of proof.	<ul style="list-style-type: none">• Administer the land use process (issue staff reports and notices)• Advise and assist decision makers• Educate and assist the public• Know the laws, comprehensive plan and regulations• Work as a team providing technical advice.• Comply with APA Code of Ethics	<ul style="list-style-type: none">• Entitled to notice and an opportunity to participate consistent with adopted procedures.• Raise concerns in the framework of the applicable approval criteria.	<ul style="list-style-type: none">• Reflect community values in making planning policies• Interpret and apply plans and regulations• Educate the public and provide a public forum• Do homework• Treat staff and elected officials with professionalism and respect.• Be courageous and don't avoid hard decisions.

RIGHT TO AN IMPARTIAL TRIBUNAL:

Decisions must be based on the testimony and evidence that is part of the record:

Disclose the substance of an ex parte contacts on the record giving the public an opportunity to question decision-maker further.

- Ex parte contacts are facts gleaned outside the record from:
 - Media reports
 - Neighborhood meetings, blogs or list serves
 - Site visits
 - Personal or Professional Experience
- An objection must be made in order to preserve a challenge at LUBA on that basis.

Decision-makers must be free of actual bias:

• “Actual Bias” – Bias exists if the decision was the produce of positive or negative bias rather than an independent review of the facts and law. *Rosenzweig v. McMinnville*.

Decision-makers may not have any actual conflict of interest:

- No actual conflict of interest - If the decision will have a direct pecuniary benefit or detriment to the decision-maker or a family member of the decision-maker, the decision-maker may not participate.
- Potential conflict of interest – Announce and determine whether to participate.
- In addition to appeal issues, can result in personal liability for the official (fines plus up to 2x the financial gain (call OGEC)

OTHER GOVERNMENT ETHICS ISSUES:

Use of Position or Office (ORS 224.040(1))

- Cannot use public position to obtain a financial benefit.

Gifts (ORS 224.025)

- A “gift” is anything of economic value (including discounts or forgiveness of debt) not offered to the general public
 - If so, maximum is \$50 total per calendar year.

Includes relatives, household and businesses

Can result in personal liability for the official (fines, plus up to 2x financial gain)

Call OGEC

PUBLIC MEETINGS AND RECORDS REQUIREMENTS

“Public Meeting” – Majority or a quorum “deliberating to a decision” – may include meeting substitutes such as conference calls or emails.

- General rule is that they are open to the public
- Notice and minutes
- Enforcement
- Public meeting vs public hearing differences

“Public Records” – Almost any writing, data storage or other record relating to city business.

- Work done on private e-mail accounts, personally purchased computers and hand-held devices might be a public record.
- Avoid commenting on instant messaging or chat rooms unless mechanism to capture this information.
- Therefore, we STRONGLY recommend the use of the City’s designated account for city business.
- When in doubt, ask the City Recorder

HEARING ISSUES:

Presiding Officer has inherent authority to maintain order and decorum

- Planning Commission Policies for Conduct
- Order and length of public testimony can be controlled by the presiding officer with consent of the commission, unless otherwise specified by other requirement)

Disturbances

- Provide a warning
- If behavior continues, ask to leave the meeting
- If they don't leave, they can be treated as a trespasser
- Tip: Call a recess to allow everyone to reset.

Interpreting the Applicable Criteria before the record closes

- Apply meaning to ambiguous standards in the purpose or policy of the provision.
- Focus on the plain meaning of terms taken in context
- Parties must have an opportunity to provide evidence while the record is open.

CLEAR AND OBJECTIVE REQUIREMENTS FOR HOUSING:

All “standards, conditions and procedures” regulating the development of housing must be clear and objective – If they are not clear and objective, they cannot be applied.

Simple in concept; very challenging to accomplish in reality:

- Requirement that stormwater runoff from a PUD will not “create negative impacts on natural drainage courses” such as erosion, turbidity or sediment transport” is clear and objective and not prohibited although it may be difficult to meet. *Homebuilders Ass’n of Lane County v. Eugene*
- Condition of approval attached to a master plan providing that “the building shall be set back...no less than 135 feet from south line” was not clear and objective. Did not matter that the master plan was adopted before ORS 197.307(4) was amended. *Group B LLC v. Corvallis*

There is a clear trend toward strictly construing “clear and objective” to be nearly a mathematical standard.

DELIBERATION AND THE DECISION

DETERMINATION OF WHETHER THE APPLICANT HAS MET ITS BURDEN TO SHOW THAT THE APPLICABLE STANDARDS ARE SATISFIED:

Identify and **interpret** the applicable approval criteria;

Identify the facts (evidence) in the record that led to a conclusion that the criterion is satisfied or not;

- Personal knowledge is not evidence in the record – put personal feelings aside
- Denial of an application cannot be based on facts not in the record
- Where there is conflicting evidence, state why certain evidence is more reliable, credible or entitled to greater weight;

LUBA standard of review for evidence: Could a reasonable person looking at all of the evidence in the record come to the same conclusion?

Adequate Findings: Must explain how the evidence leads to a finding of compliance or non-compliance with the criterion.

Conditions of Approval – may be attached to ensure that all applicable approval standards are or can be met.

QJ DECISIONS MUST BE EXPLAINED:

WRITTEN FINDINGS BASED ON SUBSTANTIAL EVIDENCE

- Identify the applicable approval criteria;
- Identify the facts (evidence) in the record that led to a conclusion that the criterion is satisfied or not;
 - Personal knowledge is not evidence in the record – put personal feelings aside
 - Denial of an application cannot be based on facts not in the record
- If criterion is not applicable, explain why it is not applicable;
- Where there is conflicting evidence, state why certain evidence is more reliable, credible or entitled to greater weight;
- LUBA standard of review: Could a reasonable person looking at all of the evidence in the record come to the same conclusion?

CONDITIONS OF APPROVAL – NEXUS AND PROPORTIONALITY IN EXACTIONS

- Legal term used to describe a direct connection between a condition of approval and the impact created by the proposal.
- The nexus must be related to the Approval Criteria and must be explained in the findings.
- The nexus must also show that the requirement of the condition is of the same weight as the expected impact.

RECOMMENDATIONS FOR EFFECTIVE PARTICIPATION

- **Try to avoid ex parte contacts or evidence**, be aware and prepared to disclose.
- **Be attentive and prepared** – It is unfair to the applicant and participants to act on issues without adequate preparation.
- **Don't be afraid to ask questions** but keep them focused and directed on the approval criteria and/or the evidence in the record.
- **Focus on issues and don't make assumptions about what you hear** – Ask open ended questions and perhaps start with a summary or paraphrase of what you hear as a framework for the question.
- **Don't make up your mind before hand – Avoid prejudgment**– Saying that “this project will increase traffic” implies that a decision is already made. Instead say “this project might increase traffic.”
- **Don't be afraid to disagree** – Sharing perspectives ensures a decision that in the City's best interest.

QUESTIONS?

Additional Resources:

- Oregon land use training info:
<https://www.oregonlandusetraining.info/>
- OGEC Guide for Public Officials (for conflicts of interest and other ethics issues): <https://www.oregon.gov/ogec/pages/guide-for-public-officials.aspx>

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