

RESOLUTION NO. 11-22

A RESOLUTION OF THE CITY OF OREGON CITY ESTABLISHING A POLICY REGARDING MEDIA IN EXECUTIVE SESSIONS

WHEREAS, ORS 192.610(2) provides: "Executive session' means any meeting or part of a meeting of a governing body that is closed to certain persons for deliberation on certain matters"; and

WHEREAS, ORS 192.660(4) provides: "Representatives of the news media shall be allowed to attend executive session ... but the governing body may require that specified information be undisclosed;" and

WHEREAS, the Oregon City Commission (the "Commission") currently has no policy or procedure for determining what is a news media organization and who is a representative of the news media; and

WHEREAS, it is in the public interest to establish a policy that defines "news media organization" and who is a "representative of the news media" in order to preserve the purposes of having executive sessions while safeguarding the rights of news media organizations; and

WHEREAS, the Commission also desires to establish as its policy that it requires all information discussed or considered in executive sessions to be undisclosed.

NOW, THEREFORE, OREGON CITY HEREBY RESOLVES as follows:

1. Definitions. As used in this resolution, the following definitions apply:
 - A. "News" means factual information that is about current events.
 - B. "News media organization" means an entity that is organized and operated to publish, broadcast or disseminate news to the public as determined by Sections 3 or 4 below.
 - C. "Representative of the news media" means an employee, agent or contractor of a news media organization who is engaged in the act of gathering news for that news media organization as determined by Section 5 below.
2. Policy that Information Be Undisclosed. It is the Commission's policy that all information discussed or considered in executive sessions of the Commission may not be disclosed in any form, and/or to any other person so long as the information is properly within the scope of statutory authorization of the executive session. This policy extends to all statements made in executive sessions, to all documents considered, and all other information presented or considered regardless of the format, within the proper scope of the executive sessions of the Commission. To the extent this policy may be inconsistent with Oregon law, Oregon law shall control. This policy shall apply regardless whether persons attending any particular executive session are reminded of the policy. The Commission, in its sole discretion, may make exceptions to this policy if it is in the public interest to do so, and if a majority of the members thereof vote to do so.

3. Recognized News Media Organizations. The following entities are hereby recognized as news media organizations without requiring further proof because they have an established history of publishing, broadcasting or disseminating news in, affecting, or about Oregon City to the public:

- A. The Oregonian
- B. Oregon City News/Clackamas Review

No other entity shall be recognized as a news media organization unless it is recognized through the process described in Section 4 below.

4. Recognition of Other Entities.

A. In order to be recognized as a news media organization, an entity other than those recognized in Section 3 above must: (i) submit a written request for recognition as a news media organization to the Commission; and (ii) provide evidence that the entity is organized and operated to publish, broadcast or disseminate news to the public.

B. It shall be the entity's burden to persuade the Commission by a preponderance of the evidence that it is organized and operated to publish, broadcast or disseminate news to the public. The entity may be a news component of a larger organization which isn't necessarily a news media organization.

C. The Commission may consider any relevant evidence provided or gathered in making a decision whether to recognize an entity as a news media organization. The Commission shall make its determination whether to recognize the entity as a news media organization based the following criteria:

- (i) Regular publication, regular broadcasts or regular updates (at least once weekly) of news;
- (ii) Publication, broadcast or website must contain a minimum of 25% news content, and include news produced by its own staff;
- (iii) The publication, broadcast or website must not serve primarily as a platform to promote the interest and/or opinions of a special interest group, individual or cause, or as a forum to air grievances, engage in gossip, or for personal attacks or character assassination.

D. The Commission's decision to recognize or not to recognize an entity as a news media organization is a quasi-judicial decision reviewable as provided by ORS 34.010 to 34.100.

5. Attendance at Executive Sessions. Representatives of the news media are allowed to attend executive sessions, except as otherwise allowed by law. In order to determine whether someone requesting permission to attend an executive session is a representative of the news media, the following procedure shall be followed:

A. Any person who wishes to attend an executive session must: (i) submit a written request for permission to attend an executive session to the Commission; and (ii)

provide evidence that the person is an employee, agent or contractor of a news media organization who is engaged in the act of gathering news for that news media organization.

B. The request for permission shall be on a form provided by the Commission. The person requesting permission to attend an executive session must complete and sign the request form. The request form shall include a space for the person to indicate his or her name and the entity for which he or she is an employee, agent or contractor. The request form shall also include a space for the person to sign his or her signature certifying that he or she is gathering news for a news media organization; that the information submitted is true; and that he or she understands that it is the Commission's policy, and that he or she agrees to comply with the Commission's policy, that all information discussed or considered in executive sessions of the Commission shall not be disclosed in any form, and/or to any other person as long as it was properly within the scope of the announced statutory authorization of the executive session and as long as the media's reporting has not independently verified it.

C. It shall be the person's burden to persuade the Commission or Commissioners by a preponderance of the evidence that he or she is an employee, agent or contractor of a news media organization engaged in the act of gathering news for a news media organization. The Commission shall make its determination whether to recognize the person as a representative of the news media based on the following criteria:

(i) Proof, satisfactory to the Commission, that the person is associated with a recognized news media organization. Such proof can come in the form of the following:

- Press identification - press badge or identification issued by recognized news media organization, plus proof of identity (such as a driver's license);

- Proof of A recently published news article by a news media organization with the person's byline, or a masthead showing the person's name as a member of the editorial staff of a recognized news media organization, plus proof of identity; or

- A letter on letterhead from an editor of a recognized news media organization in which the editor states that the reporter is covering the meeting for the news media organization, plus proof of identity (freelancers must have clippings or proof of work with a recognized news media organization within the last six months); and

(ii) Proof, satisfactory to the Commission, that the person is gathering news, even though the information discussed or considered in executive session may not be disclosed in any form, and/or to any other person.

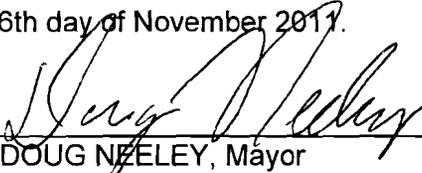
D. If the entity disclosed on the request for permission form is not recognized as a news media organization, the person shall not be allowed to attend an executive session until the entity is granted recognition.

E. If the executive session is for the purpose of discussing current litigation or litigation likely to be filed, and the member of the news media is a party to the litigation or is an employee, agent or contractor of a news media organization that is a party to the litigation, the person shall not be allowed to attend the executive session. If the Commission has reason to believe that the person has submitted false information or has previously failed to comply with the Commission's policy regarding disclosure of information properly within the scope of previous executive sessions, it may refuse permission for the person to attend the executive session.

F. The Commission may consider any relevant evidence provided or gathered in making a decision whether a person is a representative of the news media. The Commission's decision to recognize or not to recognize a person as a representative of the news media, and/or to grant permission to attend an executive session, is a quasi-judicial decision reviewable as provided by ORS 34.010 to 34.100.

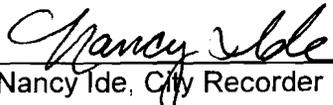
6. Cameras and Other Recording Devices. Cameras, tape recorders and other recording devices may not be used in executive sessions, except the official executive session recordings made by City staff. .

Adopted, signed and approved this 16th day of November 2011.



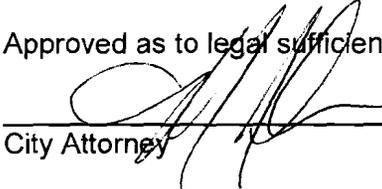
DOUG NEELEY, Mayor

Attested to this 16th day of November 2011:



Nancy Ide, City Recorder

Approved as to legal sufficiency:



City Attorney