

PLANNING COMMISSION STUDY SESSION AGENDA FEBRUARY 11, 2019



Commission Members

David Culbertson
Joe Foley
Bill Mansfield
David McFadden
Mark McKechnie
E. J. McManus
Patrick Miranda
Jared Pulver
Jeff Thomas

Planning Commission study sessions
are held on the second and fourth
Mondays of every month

Study Sessions begin at noon

City of Medford

Lausmann Annex Room 151
200 S. Ivy Street, First Floor
Medford, OR 97501
541-774-2380



Planning Commission

Agenda

Study Session

February 11, 2019

Noon

Lausmann Annex, Room 151
200 South Ivy Street, Medford, Oregon

10. Introductions
20. Discussion items
 - 20.1 2018 Citizen Involvement Program Year-end Report**
 - 20.2 Ex Parte and Conflict Training**
30. Adjournment

Meeting locations are generally accessible to persons with disabilities. To request interpreters for hearing impaired or other accommodations for persons with disabilities, please contact the ADA Coordinator at (541) 774-2074 or ada@cityofmedford.org at least three business days prior to the meeting to ensure availability. For TTY, dial 711 or (800) 735-1232.



City of Medford

Planning Department

Working with the community to shape a vibrant and exceptional city

MEMORANDUM

Subject 2018 Citizen Involvement Program Year-end Report
To Planning Commission *for February 11, 2019 study session*
From Carla Angeli Paladino, CFM, Principal Planner
Date February 4, 2019

A report is completed annually that outlines the citizen involvement program and the accomplishments made over the year. The completed report is provided to the City Council and made available to the public on the Planning Department's website. A copy of the 2018 report is attached for the Planning Commission's review and comments.

Please review the report and propose any necessary corrections or additions. At the end of the report is a list of recommended projects to be completed in the coming year. If you would like to add another project, please let staff know and it will be included.



TSP Open House - January



Liberty Park Open House - June



PARKing Day Event - September



Rent Burden Meeting – December

City of Medford Citizen Involvement Program Year-end Report 2018

Planning Department
February 2019

Working with the community to shape a vibrant and exceptional City



CITIZEN INVOLVEMENT PROGRAM YEAR END REPORT 2018

February 2019

CITY OF MEDFORD VISION STATEMENT

We envision Medford as an outstanding community – a fantastic place to live, work, and play.

PLANNING DEPARTMENT MISSION STATEMENT

We are a dynamic team working with the community to shape a vibrant and exceptional city.

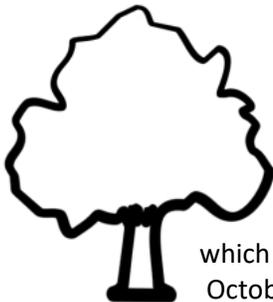
HISTORY

Citizen involvement is a long-standing tradition in Medford. The first citizens' land use committee was formed in October 1974. This committee was formed by resolution of the City Council. The purpose of the committee was to evaluate the data gathered by the Planning

Commission and City Council to form the *Comprehensive Plan*. The citizens' committee evaluated this data and formulated goals, policies, and a plan map for the *Comprehensive Plan*,

which was later adopted on October 16, 1975. This is also the date the Medford Citizens'

Committee was appointed by City Council. Membership on this citizens' committee included 25 citizens representing virtually all occupational, social, and economic groups of the region. After the adoption of the *Comprehensive Plan* Goals, Policies and Plan Map, the citizens' committee established itself into an organizational format. The Citizens' Planning Advisory Committee (CPAC) was then established and served the community for over 35 years. The CPAC was dissolved in 2014.



PURPOSE

As required by the *Oregon Statewide Planning Goal 1*, the City of Medford is required to have a Committee for Citizen Involvement (CCI). Medford's CCI is the Planning Commission.

The Planning Commission (PC) is required to ensure implementation of the citizen involvement program in conformance with all applicable laws and regulations and to continually evaluate the success of the program. The PC is responsible for preparing a formal evaluation of the citizen involvement program at least once a year for transmittal to City Council. Suggestions are encouraged to alleviate any problem areas.

STATEWIDE PLANNING GOAL 1

Statewide Planning Goal 1 states, "To develop a citizen involvement program that insures the opportunity for all citizens to be involved in all phases of the planning process." Goal 1 requires that cities clearly define procedures by which the general public can be involved in the on-going land use planning process and incorporate the following components:



- (1) Widespread citizen involvement;
- (2) To assure effective two-way communication with citizens;

- (3) Citizen influence to provide the opportunity for citizens to be involved in all phases of the planning process;
- (4) To assure that technical information is available in an understandable form;
- (5) Feedback mechanisms to assure that citizens will receive a response from policy-makers; and
- (6) Financial support to insure funding for the citizen involvement program.

(1) CITIZEN INVOLVEMENT

As noted, the CCI for the City of Medford is the Planning Commission. The PC broadly represents the geographic areas and interests of Medford as related to land use and land-use decisions. This Commission is composed of members appointed by the City Council in an open, well-publicized, public process. The PC has the ultimate responsibility of assisting with the development, implementation, and evaluation of the program that promotes and enhances citizen involvement in land-use planning.

(2) COMMUNICATION

The City of Medford has established mechanisms to provide for effective communication between citizens and elected and appointed officials. The various methods used in the land use planning process include: public hearing notices, on-site signs, public hearings, mailings, posters, questionnaires, face-to-face interaction, telephone assistance, and the City of Medford website.

(3) CITIZEN INFLUENCE

Through the citizen involvement program, citizens have the opportunity to inventory, analyze, and evaluate elements of proposed plans and policies. The Planning Department ensures all *Comprehensive Plan* and *Land Development Code* amendment proposals are posted to the City of Medford website with a request for public comments. This opportunity to provide comments encourages citizen involvement in the development of policies and goals by which land is conserved and developed.

All development proposals are available to the public upon request. Copies of materials are found at the Medford Planning Department. Seven days prior to all public hearings, the agenda packets for the hearing are posted to the City of Medford Planning Department webpage. These agenda packets include the proposal accompanied by the Staff Report and all recommended conditions of approval. The Staff Report contains a recommendation to the approving authority.

(4) TECHNICAL INFORMATION

The land use process is clearly defined in the *Medford Land Development Code* (MLDC).



The Planning Department works diligently to articulate and clarify this process to all customers through various media: front counter interaction, telephone inquiries, and at *Land Development Committee (LD)* meetings. LD meetings provide the opportunity for applicants to meet with city staff members to review land use applications, discuss requirements of the code, and discuss options and next steps. This meeting is held prior to the public hearing and is informal in nature.

Additionally, all technical information contained in plans and studies is placed on the City of Medford website. The *Comprehensive Plan*, *Transportation Plan*, and *Riparian Corridors* are some examples of the documents available.

(5) FEEDBACK MECHANISM

Land use decisions are made by review bodies, including the Planning Commission (PC), Site Plan and Architectural Commission (SPAC), and the Landmarks and Historic Preservation Commission (LHPC). The outcomes of Commission hearings are mailed to those who testified at the public hearing or in writing, explaining the appeal process. Additionally, approved minutes of the hearings are posted on the City of Medford website.

(6) FINANCIAL SUPPORT

The City of Medford funds the citizen involvement program in various ways. A manager, Planning staff, and Recording Secretary attend all Commission meetings (PC, SPAC, and LHPC). Additionally, Planners prepare and present staff reports at the hearings, including the City Council. The Planning Department also staffs the Bicycle and Pedestrian Advisory Committee (BPAC) and other ad hoc committees. Some recent committees have included the Joint Transportation Subcommittee/Citizen Advisory Committee (JTS/CAC) and the Housing Advisory Committee.

Staffing of all these commissions and committees requires a high level of staff resources and city funds, which results in an efficient and valuable citizen involvement program.

COMMISSIONS AND COMMITTEES

All commission and committee members are citizen volunteers. The Planning Commission meets four times per month and the Site Plan and Architecture Commission meet twice per month, while the Landmarks and Historic Preservation Commission, Bicycle and Pedestrian Advisory Committee, and Community Development Grants Commission meet one time each month. Ad hoc committees meet as necessary.

PLANNING COMMISSION

Members of the Planning Commission apply to and are appointed by the City Council. Openings for the PC are announced using media such as press releases, web site postings, and postings in City Hall. The PC holds two public hearings per month, on the second and fourth Thursday at 5:30 p.m. Two study sessions generally are held each month, on the second and fourth Monday at noon.

SITE PLAN AND ARCHITECTURAL COMMISSION

Like the PC, the Site Plan and Architectural Commission (SPAC) consist of members who are appointed by the City Council. Also like PC, SPAC position openings are posted on the City of Medford website and in City Hall. A press release is sent to all local media outlets. SPAC holds two quasi-judicial public hearings each month, on the first and third Friday at noon. Study sessions are held as needed.

LANDMARKS AND HISTORIC PRESERVATION COMMISSION

The Landmarks and Historic Preservation Commission also holds quasi-judicial public hearings. Members are appointed by the City Council. The Landmarks and Historic Preservation Commission meets on the first Tuesday of the month, starting at 5:30 p.m.

BICYCLE AND PEDESTRIAN ADVISORY COMMITTEE

The purpose of the Bicycle and Pedestrian Advisory Committee is to advise Medford City Council on plans and issues related to non-motorized transportation. Membership requires appointment by the City Council. All members must reside in the City of Medford throughout his/her term.

*COMMUNITY DEVELOPMENT GRANTS
COMMISSION*

Council appointed the new nine-member Community Development Grants Commission (CDGC) in November 2018 to administer the City's Community Development Block Grant (CDBG) and General Fund Grant programs. The CDGC holds one public meeting per month, on the first Wednesday at 5:30 p.m. Study sessions are held as needed on the third Wednesday of the month. Like PC and SPAC, position openings are posted on the City's website and in City Hall.

AD HOC AND SPECIAL PROJECT COMMITTEES

The Planning Department also staffs and facilitates ad hoc committees, groups whose purpose is directly related to a specific project, Code Amendment, or Comprehensive Plan Amendment. The 2017 Housing Advisory Committee is a recent example of such a committee. It was formed to identify how to increase housing opportunities through review of regulatory barriers and economic incentives. The Committee forwarded 36 recommendations for staff and Council to evaluate. The City has completed nine of the recommendations to date.

Membership on these ad hoc committees is generally through appointment by the City Council.

CITIZEN INVOLVEMENT & THE MEDFORD LAND USE PROCESS

The City of Medford *Land Development Code* establishes the process by which land-use applications comply with the Citizen Involvement Program. These steps include the following: posting of signs on all properties with a current land-use proposal; availability to the public of submitted proposals; notice to all property owners within 200 feet of any proposed land-use application, or a minimum of 75 properties for Planned Unit Developments (PUD); neighborhood meetings prior to

submission of a land use application (for PUDs); except for LHPC, broadcast of public hearings on local television; the recording of minutes of each public meeting; and mailing decision letters to all citizens and affected parties who testified orally or in writing to a proposed land-use application, including an explanation of their appeal rights.

TYPES OF LAND-USE APPLICATIONS

There are four types of land-use applications: Type I, II, III, and IV.

TYPE I

Type I applications are Administrative decisions. The Planning Department Director or designee is the designated approving authority for this type of application. These types of decisions do not require public notice, a public comment period, or a public hearing.

Such applications include:

- (1) Minor Historic Reviews
- (2) Final Plats for Subdivisions and Partitions

Type II

Type II applications are also administrative decisions decided on by the Planning Director or designee. Decisions are rendered based on applying clear and objective approval criteria and standards while using limited discretion to determine impacts on adjacent properties. These decisions include public notice and a public comment period but do not include a public hearing.

Such applications include:

- (1) Partitions
- (2) Portable Storage Containers

Type III

Type III applications are quasi-judicial actions decided by the Planning Commission, Site Plan and Architectural Commission, or the Landmarks and Historic Preservation Commission. These quasi-judicial actions may

be appealed to the City Council. All Type III applications are required to receive final action within 120 days from the date the application is deemed complete unless an extension is granted. The decisions of the Planning Commission, Site Plan and Architectural Commission, or the Landmarks and Historic Preservation Commission require the application of clear, objective criteria and standards and a degree of discretion to determine compliance. These decisions include public notice and a public hearing.

Type III applications include:

- (1) Conditional Use Permits;
- (2) Exceptions;
- (3) Historic Reviews;
- (4) Tentative Plats; Subdivisions;
- (5) Planned Unit Developments;
- (6) Site Plan and Architectural Reviews;
- (7) Zone Changes.

*Number of Type III Applications Approved
2017 and 2018*

TYPE III APPLICATIONS	APPLICATIONS APPROVED	
	2017	2018
Conditional Use Permits	5	8
Exceptions	4	8
Historic Review	9	17
Land Divisions, Partition	2	12
Land Division, Subdivisions	9	12
Preliminary Planned Unit Developments	1 2 revisions	5
Site Plan and Architectural Review	21	17
Zone Changes	12	19
TOTAL	65	98

Type IV

Type IV applications are typically legislative decisions that establish policies and regulations. In some cases, the actions may be quasi-judicial. In most cases, the PC provides a recommendation to the City Council who then makes the final decision. The Council decision is based upon applicable criteria of the *Comprehensive Plan* and *Land Development Code*, compliance with the Statewide Planning Goals and Guidelines, staff analysis, comments from the referral agencies, public testimony, and any other evidence that may be provided.

Type IV applications include:

- (1) Major Comprehensive Plan Amendments;
- (2) Major Zoning Map Amendments; and
- (3) Code Amendments.

*Number of Type IV Applications Adopted
2017 and 2018*

TYPE IV APPLICATIONS	APPLICATIONS ADOPTED	
	2017	2018
Major Comprehensive Plan Amendments	1	4
Minor Comprehensive Plan Amendments	1	0
Major Zoning Map Amendments	0	1
Code Amendments	4	10
GLUP Map Amendments	0	4
Annexations	0	1
Street Vacations	4	1
Transportation Facilities	2	1
TOTAL	12	22

PUBLIC HEARINGS/MEETINGS

Section 10.161 of the Medford *Land Development Code* regulates the conduct of public hearings before an approving authority.

In 2017 and 2018, the City of Medford held a combined total of 182 public meetings. The Planning Department is responsible for staffing the Planning Commission, Site Plan and Architectural Commission, Landmarks and Historic Preservation Commission, Community Development Grants Commission and former Housing and Community Development Commission. Staff also presents at City Council meetings as necessary.

*Number of Public Meetings
2017 and 2018*

APPROVING AUTHORITY	PUBLIC MEETINGS	
	2017	2018
City Council	24	24
PC	22	24
SPAC	19	19
LHPC	9	11
CDGC	0	2
HCDC	14	14
TOTAL	88	94

- (4) Notices printed in the local newspaper ten days prior to the public hearing;
- (5) Staff reports available seven days prior to the public hearing;
- (6) The posting of staff reports and public hearing notices on the Planning Department website seven days prior to the public hearing; and
- (7) Mailed decision notices.

The amount of public notification varies per project. Some long range planning projects that involve notice to both affected and surrounding properties may require notice to hundreds of owners. Notification for current planning projects can vary from less than twenty to several hundred.

PUBLIC HEARING NOTICES

Before public hearings can take place, various noticing requirements must first be met. As required by the *Land Development Code* and State Statute, the following methods are used to notice a public hearing. These may vary depending on the type of land use application.

- (1) The posting of signs on the subject property 21 days prior to the public hearing.
- (2) Mailed letters to all property owners within 200 feet of the subject site 20 days prior to the public hearing. PUDs are required to notice a minimum of 75 property owners;
- (3) For PUDs, neighborhood meetings prior to submittal of a land use application;

BUILDING PERMITS

The table below shows the number of permits issued for new dwelling units in the years 2016–2018.

MEDFORD PERMITS ISSUED (2016–2018)	
Housing Types	Number of Units
2016	
Accessory Dwelling Units	14
Duplex	1 (2 units)
Manufactured Units -In Park/On Parcel	3/0
Multi-Family	19 (178 units)
Single-Family Attached	36
Single-Family Detached (Building Dept. web data)	291
Total	364 permits/ 524 units
2017	
Accessory Dwelling Units	23
Duplex	4 structures/8 units
Manufactured Units -In Park/On Parcel	1/0
Multi-Family	14 structures/115 units
Single-Family Attached	0
Single-Family Detached	291
Total	333 permits/ 438 units
2018	
Accessory Dwelling Units	20
Duplex	2 (4 units)
Manufactured Units -In Park/On Parcel	10/3
Multi-Family	15 structures/146 units
Single-Family Attached	0
Single-Family Detached	302
Total	352 permits/ 485 units

ACCOMPLISHMENTS IN 2018

The City of Medford adopted the following Comprehensive Plan Amendments and Code Amendments in 2018:

COMPREHENSIVE PLAN AMENDMENTS	MONTH ADOPTED
Urban Growth Boundary Amendment acknowledged by the State	May/June
Natural Hazards Mitigation Plan	November
Urbanization Plan process	November
Transportation System Plan	December
Urban Reserve Local Wetland Inventory	December

DEVELOPMENT CODE AMENDMENTS (CHAPTER 10)	MONTH ADOPTED
Implemented an Affordable Housing Construction Excise Tax (Chapter 9)	February
Public Parks Zone & Parks Development Review process created	June
Chicken regulations (Chapter 5)	June
Marijuana residential grow structures (Chapter 5)	June
Article II reorganization	June
Creation of new Housing Advisory Commission (HAC) & Community Development Grants Commission (CDGC)(Chapter 2)	June
Senate Bill 1051 amendments (Interim Multi-Family Design Standards)	August
Wireless/Small Cell Facilities	September
Temporary Shelters	September
Housing & Housekeeping	December
Accessory Dwelling Units	December

HOUSING & COMMUNITY DEVELOPMENT

Planning expanded its impact on the community by incorporating the Housing & Community Development division into the department in 2017. This Division works directly to address community development, homelessness and housing issues. It administers the Community Development Block Grant (CDBG), Neighborhood Stabilization Program (NSP), Construction Excise Tax (CET) and General Fund Grant dollars, and works with other City Departments and community partners to address blight and problem properties throughout the City along with other housing related programs.

ACCOMPLISHMENTS IN 2017/2018

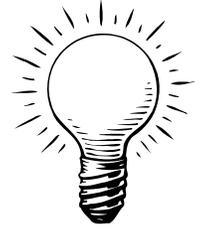
- Established a Housing Advisory Commission (HAC) and Community Development Grants Commission (CDGC)
- Implemented a Construction Excise Tax program
- Implemented a System Development Charge Deferral program
- Completed two substantial amendments in the 2017/2018 Action Plan
- Completed 13 environmental reviews for HUD-assisted projects in compliance with the National Environmental Policy Act (NEPA)
- Assisted with the reorganization of the regional Continuum of Care (CoC)
- Served as a member of the CoC Housing Pipeline Workgroup
- Organized a department employee volunteer project with Habitat for Humanity
- Completed a Fair Housing Matrix to implement remedial actions for impediments to fair housing choice
- Conducted a public meeting on Rent Burden – HB 4006
- Facilitated acquisition of three foreclosed homes to rehabilitate for new homeowners
- Cultivated a multi-sector community partnership to rebuild a veteran's condemned home
- Facilitated a public-private partnership to convert a blighted home to permanent supportive rental housing for individuals recovering from addiction
- Worked with ECONorthwest to complete a study on economic incentives related to housing development including:
 - ADU development
 - CET program administration
 - Property tax exemption programs
- Provided CDBG financial resources and/or technical assistance to:
 - Rehabilitate one rental and 35 homeowner housing units
 - Maintain or secure housing for 76 residents through rental assistance
 - Modernize an 86-unit affordable housing complex
 - Develop or improve public infrastructure, facilities, or parks and open space for 6,692 persons or households
 - Address 11 blighted homes through code enforcement or demolition
 - Help 2,729 low- and moderate-income residents become self-sustaining through public services
 - Develop a pilot program designating a staff liaison to affordable housing developers to help streamline the application and development process
 - Acquire property to renovate a building for vocational training and transitional housing
 - Complete a study on housing strategies.

Other Department projects or actions include:

- (1) Kick-off of the Liberty Park Neighborhood project; held two open houses, conducted surveys, met with the Neighborhood Advisory Committee
- (2) Completed a five year audit for Community Rating System floodplain program; recertified as a Class 6 community which provides residents 20% and 10% discounts on flood insurance premiums
- (3) Staffed a flood awareness booth at the Preparedness Fair in September
- (4) Held five open houses for the Transportation System Plan project
- (5) Hosted a lunch and learn with City employees for October Planning Month
- (6) Co-sponsored a downtown PARKing Day event in September with RVTD
- (7) Co-sponsored the RecFest Event at Hawthorne Park with the Parks Department
- (8) Hosted a bicycle breakfast with Public Works & RVTD for Bike to Work Week at Hawthorne Park
- (9) Installed 8 new bicycle racks downtown
- (10) Worked with Opticos Design, Inc. and a Technical Advisory Committee to review possible code changes related to housing types and density.

RECOMMENDATIONS FOR 2019

Some of the upcoming projects for this year include:



- (1) Converting to a paperless application submittal process through TRAKiT
- (2) Adopting wetland regulations
- (3) Incorporating the sanitary sewer master into the Comprehensive Plan
- (4) Modifying the Land Development Code to incorporate policies related to the updated Transportation System Plan
- (5) Completing and begin implementing the Liberty Park plan
- (6) Updating the Downtown 2050 plan
- (7) Expanding administrative review of historic projects (signs, fences, replacement of windows/doors)
- (8) Completing and implementing a Homeless System Improvement Plan

QUESTIONS OR COMMENTS

Contact Us:

Planning Department
200 South Ivy Street, Lausmann Annex
Medford, Oregon 97501

planning@cityofmedford.org

541-774-2380 (office)

ETHICS, PUBLIC MEETINGS, AND PUBLIC RECORDS TRAINING

for the City of Medford's Boards and Commissions

presented by the City Attorney's Office



Page 14
Medford – A Fantastic Place To Live, Work & Play

PART ONE: ETHICS

Legal requirements imposed by Oregon legislature and described in ORS Chapter 244.

This is a matter of technical compliance, not a lecture on morality.

Who is a “public official”?

“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 the services” – ORS 244.020(15)

All members of Boards and Commissions are public officials.

All City employees are public officials.

Who is a “relative”?

- Your “spouse, parent, stepparent, child, sibling, stepsibling, son-in-law or daughter-in-law”
- Your spouse’s “parent, stepparent, child, sibling, stepsibling, son-in-law or daughter-in-law”
- Anyone where you have a legal support obligation
- Any individual where you provide benefits from your employment
- Any individual who provides you benefits from their employment
- Nobody else (not first cousins, aunts/uncles, nieces/nephews, grandparents, or grandchildren)

Conflicts of interest

About financial entanglements, not other types of bias.

Actual conflict: the decision “would be to the private pecuniary benefit or detriment of [1] the person or [2] the person’s relative or [3] any business with which the person or a relative of the person is associated”

Potential conflict: the decision “could be” that sort of benefit

Actual conflict of interest

If you discover an actual conflict of interest, you must recuse yourself from both voting and from debating as a public official.

But you can give testimony as a member of the public, so long as you are representing your own interests and not those of a client.

Recusing yourself from a vote will not eliminate a quorum for that meeting. So attend the meeting and just recuse yourself for that one agenda item.

Potential conflict of interest

If you discover a potential conflict of interest, you must announce at the meeting the existence and nature of the conflict.

Recusing yourself is not legally required, but is best practice, since the line between actual conflict of interest and potential conflict of interest can be blurry.

If you do not recuse yourself, you should allow the applicant or members of the audience to question you on the conflict. Not mentioned in statute but important for a clear record.

Gifts

Neither you nor a member of your household should “solicit or receive, directly or indirectly,” a gift of more than \$50 from anyone “that could reasonably be known to have a legislative or administrative interest.”

That means an economic interest, which is different from that of the general public, in any matter subject to the public official’s decision or vote.

Warning: this rule does not require an improper motive by either party, and preexisting friendship or preexisting history of gift exchange are not defenses!

Honoraria

“Honoraria” are gifts in exchange for providing a speech or similar service (for example, being the keynote speaker at a conference).

Food, beverage, travel, and expenses are permitted.

In addition, plaques, commemorative tokens, and gifts of value up to \$50 are permitted.

Beyond that, you should decline the gift or consult with the City Attorney’s Office.

Nepotism

General rule: you may not “not appoint, employ or promote a relative or member of the household to...a position with the public body that the public official serves or over which the public official exercises jurisdiction or control.”

This includes participating in interviews, discussion, or debate about the appointment.

Exception where that position (not just your position) is a volunteer position.

Representing private interests

Cannot represent a client for a fee before your own Board or Commission.

Can represent your own interests before the Board or Commission.

Can represent your employer or business partner before the Board or Commission.

Interest in public contracts

A person who ceases to hold a position as a public official may not have a direct financial interest in a public contract authorized by that body for two years after the contract was authorized.

Exception: if you did not participate in the authorization of the contract. So if you think you might be interested in later doing something connected with a public contract, recuse yourself from the vote over that contract!

PART TWO: PUBLIC MEETINGS

Legal requirements imposed by Oregon legislature and described in ORS Chapter 192.

Purpose is transparency in public proceedings.

Once again, this is a matter of technical compliance, not motive.

General rule

“All meetings of the governing body of a public body shall be open to the public and all persons shall be permitted to attend.”

The City of Medford is a “public body.”

Its Boards and Commissions are “governing bodies.”

A “meeting” is anything where a quorum is needed to either make a decision or deliberate toward a decision.

Quorum requirement

Without a quorum, no votes can be taken.

Without a quorum, discussion on an issue is not prohibited.

However, be wary of “serial” discussions under the Oregon Court of Appeals 2015 *Handy* decision. If three people make a quorum, and A talks to B about an issue, and then B talks to C about that issue, there has been a quorum even though A, B, and C never all met simultaneously.

Best practice is to not discuss upcoming business with other Board/Commission members prior to the meeting.

Notice requirement

If it is a “public meeting,” prior notice must be given to the public. This is typically handled by Staff.

However, Staff cannot provide the legally-required notice for a public meeting that spontaneously or inadvertently occurs.

The purpose of the notice is to allow interested parties to attend (but not necessarily to participate).

Voting requirement

All official actions must be decided by public vote. Can be voice vote (“all in favor say aye”) for certain matters and roll call (each person asked “yes” or “no” by Staff) for more complex matters.

No proxy voting (for members who aren’t present).

No remote voting (Skype, telephone, etc) without prior agreement with Staff; this is highly discouraged in all but emergencies.

Social gathering exception

A gathering of Board or Commission members is not subject to public meetings law unless (1) a quorum is present, and (2) there is discussion relevant to the Board or Commission's work.

If a meal is provided prior to your meeting, do not discuss what is on the evening's agenda during that meal.

At events like the Boards and Commissions' luncheon, keep discussion on what the group has done in the past, not what the group will tackle in the future.

Ex parte contacts

The public process only works if the decision is made on evidence in the record, and every decision-maker is operating from the same set of facts.

Interested parties may reach out to you directly, outside of a public meeting, just trying to explain their concerns directly. Such communication undermines the public process even when there is no nefarious intent.

If this happens, politely disengage, forward written ex parte communications to Staff, summarize oral ex parte communications to Staff, and disclose the ex parte at the public meeting.

The ex parte rule

ORS 227.180(3): No decision or action of a planning commission or city governing body shall be invalid due to ex parte contact or bias resulting from ex parte contact with a member of the decision-making body, if the member of the decision-making body receiving the contact:

(a) Places on the record the substance of any written or oral ex parte communications concerning the decision or action; and

(b) Has a public announcement of the content of the communication and of the parties' right to rebut the substance of the communication made at the first hearing following the communication where action will be considered or taken on the subject to which the communication related.

PART THREE: PUBLIC RECORDS

Legal requirements imposed by Oregon legislature and described in ORS Chapter 192.

Purpose is transparency in government.

Once again, this is a matter of technical compliance, not motive.

Public records requirements

Generally, the City has two legal responsibilities with public records.

First, public records must be kept for a certain amount of time.

Second, public records must be made available to members of the public upon request, unless an exception applies.

Emails

If the City has provided you with an email address, use that for Board/Commission business instead of a personal email account.

Emails to and from City email accounts (whether the account is for a Staff member or a Board/Commission member) are preserved by the City.

Personal email accounts used for City business pose public records problems unless a City Staff member is cc'ed on each email.

Text messages

Text messages can be public records, just like emails.

Text messages are very difficult for the City to preserve and to locate.

Text messages are often deleted when an individual buys a new phone.

Best practice is to not use text messaging for public purposes.

Consequences

Knowingly destroying public records is a criminal offense pursuant to ORS 162.305 (tampering with public records).

The crime requires that the act be “knowing,” but does not require malicious or dishonest intent.

Questions?

And if you think of a question later, please contact the City Attorney's Office at 541-774-2020, or come see us in City Hall, Room 360.