COTTAGE GROVE CITY COUNCIL
WORK SESSION MINUTES
NOVEMBER 23, 2020

CALL TO ORDER

Mayor Jeff Gowing called the virtual meeting to order at 6:00 pm in the Council Chambers at City Hall.

ROLL CALL

City Recorder Trudy Borrevik called the roll. The following were

PRESENT IN THE COUNCIL CHAMBERS: Mayor Jeff Gowing and Councilor Kenneth Michael Roberts

PRESENT VIA GOTOMEETING: Councilors Greg Ervin, Candace Solesbee and Jon Stinnett

Jaye, Boone and Mike Fleck

COUNCIL ABSENT:

STAFF PRESENT IN THE COUNCIL CHAMBERS: City Recorder Trudy Borrevik

STAFF PRESENT VIA GOTOMEETING City Manager Richard Meyers, Public Works & Development

Director Faye Stewart and Finance Director Roberta Likens

CITY ATTORNEY: Carrie Connelly (Virtual)

MEDIA PRESENT: Damien Sherwood, The Sentinel (Virtual)

City Attorney Carrie Connelly introduced herself and said she had been the City Attorney for approximately six years. She said some Councilors had probably seen the presentation several times but it was always good for refreshers.

She congratulated Councilor Stinnett on his appointment to the Council.

Carrie provided a PowerPoint presentation, “Government Ethics in Three Simple Rules (And a Few Other Things You Need to Know)” which is attached hereto and marked Exhibit “A”. The three simple rules which were discussed were: Rule 1: Don’t Use Your Position for Financial Gain; Rule 2: Gifts are Limited; and Rule 3: Declare Conflicts of Interest.

1 – Council Work Session Minutes, 11/23/2020
There was discussion on each rule and questions were asked and answered and several scenarios were discussed.

Carrie skipped sections regarding Conflicts of Interest and Nepotism Rules; Outside Employment Conflicts.

Carrie commented on Virtual Public Meetings. She said Councilors needed to be careful when attending the meeting at home with family members, etc. being present. She cautioned Councilors not to discuss anything with someone in their residence during the meeting to avoid any issues with ex-parte contacts, etc. She also cautioned Councilors to wear headphones during Executive Sessions so that those in their residence aren’t able to hear the meeting.

Carrie discussed Social Media and referred to the case of Handy vs. Lane County. She strongly recommended that Council not post comments that infer a Council position or determination that has not been adopted or made. She also said Councilors should not discuss policy issues currently before the Council electronically with citizens and other Councilors. She provided examples of Councilor posts on social media and how they could affect the City.

Carrie talked about Public Records and the City’s Electronic Communications Policy which had been provided to Council. She reminded Council that they were strongly encouraged/required to use their City email which was already set up to capture Councilors emails.

Carrie said she and Richard discussed that Council hadn’t had a training on land use for some time and suggested scheduling a land use training for some time in January/February.

Councilor Fleck asked if he understood correctly that anything posted by a Councilor about City business on Facebook/Social Media should be captured and forwarded to the City Recorder.

Carrie said that was correct.

There being no further business, Mayor Gowing adjourned the meeting at 7:07 pm.

Trudy Borrevik, City Recorder

Jeffrey D. Gowing, Mayor
FEW OTHER THINGS YOU NEED TO KNOW
AND A SIMPLE RULES GOVERNMENT ETHICS
Learn the Lay of the Land: Tours,
corporation and the public trust
caretaker of a multi-million dollar
Congratulations! You are the proud

ON THE JOB TRAINING
use care.

Otherwise, as individual (and even then, Authorized in Councilor Capacity)

- Be careful speaking publicly

Policy

Council action (specific action, ordinance, vote)

of the City without prior authorization via

No individual authority to act on behalf

- Numbers (majority vote from a quorum)
- Legal authority (statutes, ordinances and policies)

Council authority requires two things:

COUNCIL AUTHORITY
duties.

Potential liability if act outside scope of
Supervisor
Mayor acts as point-person for Council in its role as
Manager and Municipal Judge
Council is only the direct Supervisor for City
City Manager supervises City staff
City Manager operates the City and
City Charter delegates operational powers to

COUNCIL AS EMPLOYER
create ethics issues.

a situation that could
you are presented with
flags will go up when
information so that red
you enough
presentation will give
Hopefully this

very fact-specific.

Ethics questions are

RED FLAGS
A Volunteer □
An Employee; or □
An Appointed Official; □
An Elected Official; □
Serving the City as:
A "Public Official" is any person

Who is a Public Official
DON'T USE YOUR FINANCIAL POSITION FOR GAIN

RULE 1

"Try this—I just bought a hundred shares."

Exhibit “A” – Page 7
YOUR POSITION

If that opportunity would not be available BUT FOR

associated household, or business with which any of these is

For the PO, for the PO's relative, a member of the PO's

To get $ or to avoid losing $

A Public official (PO) cannot use position

The "BUT-FOR Test 244.040(1)"
Issue?

form and signs and pockets the check. Any
signature, she marks "approved" on the
herself an extra tip, as an authorized
attached. To save everyone trouble (and
awaiting approval, with the unsigned check
later, she sees the reimbursement form
while visiting the City Manager a few days
request for travel expenses to City Hall.

Sidney Mayor attended the LOC convention
Exhibit "A" - Page 9
1. No, Sid was entitled to the reimbursement.

2. Yes, Sid used her official position to bypass the reimbursement process and sign her own reimbursement request for personal expenses.

3. No, Sid not only should receive reimbursement, but also deserves compensation for conference attendance.
or provides or receives employment benefits from the 

Anyone for whom the PO has a legal support obligation 

Son-in-law or daughter-in-law of the PO or PO’s Spouse 

Parents or stepparents of the PO or PO’s Spouse 

Sister or stepsister of the PO or PO’s Spouse 

Brother or stepsibling of the PO or PO’s Spouse 

Children of the public official or of the public official’s spouse.

ORS 244.020(16)

"RELATIVE"

Exhibit "A" - Page 11
RULE TWO: Gifts are limited (5$00) per year, per interested giver.
the same terms
given to the general public on
without receiving value back and
household
relative or member of the PO’s
given to public official, the PO’s
something of economic value
ORS 244.020(5)
WHAT IS A “GIFT”?
official actions (i.e., a decision, or vote)

If your source has an interest in your one year

Gifts over $50 from any single source in

Cannot ask for or receive (household)

You (your relative or a member of your

THE GIFT RULE:
Official duties
Informational materials related to your
with resale value $25
Unsolicited award/token of appreciation
members
Present from relatives or household
Campaign Contribution

A GIFT IS NOT LIMITED IF IT IS:
the city representing acting in official capacity, and entertainment
Food, beverage, and entertainment
Incidental food, beverage, and office
practice and not related to your public

A GIFT IS NOT LIMITED IF IT IS:
buffet style. Any issues?
the luncheon and the food is provided
authority. No business is discussed at
exceeded the City Manager’s spending
Once awarded, the contract will
of soliciting a new software program.
conference. The City is in the process
developer during a national
luncheon put on by a software
Council is invited to a large
1. No, if you don't know the value of a gift, it doesn't count.

2. Yes, the Councilor should identify the value of the meal and include it within her annual tally. If over $50, she must refuse.

3. No, the meal is incidental to the convention.

4. No, it is not certain whether this software provider will be awarded the contract.
Rule 3

Declare

Conflicts

Of

Interest
public official or relative
Or any business associated with the
Or relative
Resulting in $ detriment to public official
Resulting $ benefit to public official or
By a public official
An action, decision, or recommendation
"Actual Conflicts (Will Happen)"
Potential Conflict (Could Happen)
A government entity is not a business
or a relative are an officer/director
or a relative have $100,000 of interest or you
Any publicly held corporation in which you
Any private business in which you or a
Relatives are an owner, officer, director, or
Employee or in which you or a relative have

Business with which person is associated
Income comes from the business of your total annual household Economic Interest, if more than 10% OR if you file a Statement of Associated Business with which Person is
Direct you to deal with the issue

Ask someone else to deal with the issue

Supervisor may:

Request instruction

In writing

Notify your Supervisor of the conflict

Personal

Conflicts of Interest - Unlected
When in doubt: Shout it out!

(Both Actual and Potential)

Public Officials

Conflicts of Interest Rules for Elected
Unless Council cannot act without you (only vote, don't talk) talking and no voting...

Same rules as Potential Conflict, but no up.

When in doubt, shout it out... and then shut

Electees

Actual Conflict Only
Membeership in a non-profit (501(c)3)

Commission determines is a class, distinguishable group of citizens that the membership in a class (any large, benefit happens because of:

It is not a conflict if the financial
The City is making City-wide adjustments to its zoning map in order to comply with state accessory dwelling unit requirements. A planning commissioner owns property anticipated to be rezoned. Any issues? Does your answer change if the individual voting is a councilor?
1. The Planning Commissioner and Councilor must declare a conflict.

2. The Planning Commissioner must participate in the discussion or vote, but the Councilor has no issues. And not participate in the discussion or vote, but the Councilor must declare a conflict.

3. The Councilor must declare a conflict and not participate in the discussion or vote.

4. Both the Planning Commissioner and Councilor must declare a conflict, but can discuss the issue and vote.

Exhibit "A" - Page 29
Violation

Personal liability up to $1,000 per

Decision not invalidated

Effect of failing to disclose conflict:
A Po may not directly supervise a relative or member of the Po's household (but the city may adopt policies allowing for direct supervision).

- Don't be the boss of me.

A Po may not discuss the employment action, unless the Po follows the conflict of interest rules, and fire, or demote a relative or member of household, promote, discharge,

- Hiring family? Think conflict.

ORS 244.175 – 244.179

RULES: CONFLICTS OF INTEREST AND NEPOTISM
The date the contract was authorized by the public official for two years from benefit from a public contract authorized government employer and directly a public official may not leave his or her.

Conflicts - ORS 244.047 Outside Employment
Public Meetings

What are the requirements of a public meeting?

- Recordings
- Voting
- Notice
- Space, Location, Accessibility and Public Attendance

- Serial discussions (unless purely administrative)

- Electronic meetings? Emails, IMs, and Texts

- Purpose of meeting (Deliberate or Decide)

- Quorum (4 or more)

What meetings are subject to the law?
Examples of misunderstood purposes:

- Must read statutes (except labor negotiations)
- Limited discussions only
- No final decisions
- Media attendants

Executive Sessions

Public Meetings
PUBLIC MEETINGS

Practical Tips: Do's

- Set realistic agenda
- Circulate/review materials/minutes in advance
- Use work sessions
- Know Council Rules
- Public participation does not mean public conversation
- Keep it formal
- Restate vote, note if staff must follow up
- Get comfortable having discussions in public

Exhibit “A” – Page 35
Avoid sharing firm opinions or views on items the Council will vote on.

Where the views of a fellow Councillor are shared:

- Avoid conversations (in person or via e-mail) between Councillors
- Avoid replying to e-mails when City business information is shared

Practical Tips: Don'ts

Public Meetings
During a meeting while muted,
based on a private conversation in your home
recorded in the minutes. Your vote should not be

The basis for a decision must be public and

- contract

During a quasi-judicial hearing = Ex-parte

- big concern; another adult is a problem.

- ensure that no one is talking/whispering to you
during a public hearing.

- During a public hearing, three year old not a

Executive sessions.

- use headphones and ensure privacy during

**Practical Tips**

**VIRTUAL PUBLIC MEETINGS**
Do not discuss matters with other Councilors over social media. Unintentional quorums, deliberations or decisions could constitute an unlawful "public meeting."

Handy v. Lane County, 360 Or. 605 (2016).
Councillors, members, and other electronically before the Council issues currently before the Council. Councillors should not discuss policy adopted or made. determination that has not been that inter a Councill position or Councillors should not post comments.
Media Posts

Individual Social
No duty to create records

Electronic Information and emails.

Physical form or characteristics retained by a public body regardless of information that is prepared, owned, used, or
Any writing that contains public business

What is a public record?

Putting pen to paper lights more fires than matches

PUBLIC RECORDS
public interest balancing tests.

Even when exempt, often subject to law. See ORS 192

disclose unless exempt under the confidentiality law. Must

OREGON LAW FAVORS DISCLOSURE

PUBLIC RECORDS:

Exhibit "A" - Page 42
E-Communications Policy

PUBLIC RECORDS: SOCIAL MEDIA

Records Law retention requirements. Records subject to Oregon's Public records media posts can constitute public

City officials shall forward all social

business to the City Recorder for

media posts that relate to public

retention. See E-Communication Policy.
computer/phone devices for review by court and/or DA.

ability (can result in seizure of personal
ability) is whether intentionally or due to lack of
produce deleted items on your hard drive and (3) Failure
through deleted items on your hard drive and (3) Failure
may have to engage a consultant to recover and still
response to a request (junk, deleted, etc.); (2) Costly—
response to a request (junk, deleted, etc.); (2) Costly—

Risks: (1) Time consuming—sort through all emails in
Time consuming—sort through all emails in

• Be familiar with E-Communication Policy
  • Use City-Issued laptops, not personal computers.
  • Emails are archived and cannot be deleted.
  • Use City Email accounts, not personal accounts.
  • Council must ensure City Recorder receives all Public
    Council must ensure City Recorder receives all Public
    • City Recorder is records custodian for City.
    • City Recorder is records custodian for City.

PUBLIC RECORDS
Public Records

In effect as of January 1, 2018, the City of [City Name] has five days in which to acknowledge receipt and request that additional ten days be provided to provide the requested documents or a projected timeline.

Please cooperate with your City Recorder.
Buildings and Security Measures
Interference with Public
192.501 (22) and (23)
Personal Discipline
192.501 (12)
Litigation
192.501 (1) Pertaining to

BALANCING TEST EXEMPTIONS
PUBLIC RECORDS: SOME
PUBLIC RECORDS: SOME OTHER EXEMPTIONS

- 192.502(2) Personal Privacy
- 192.502(3) Personal Information
- 192.502(4) Confidential Information
- *Documents otherwise protected.*
THE END!