

**Administration Advisory Committee
Recommendation Memo**

TO: Oakridge City Council
FROM: Administration Advisory Committee
DATE: January 7, 2020
SUBJECT: Oakridge Economic Development Advisory Committee & Planning
Commission Dual Membership

1. Purpose

This memo is intended to provide information and recommendations to the Oakridge City Council for members of the Oakridge Economic Development Advisory Committee and Oakridge Planning Commission who are voting members on both committees.

2. Background Information

Planning Commission Scope

ORD. 695 "(1)The commission shall have the powers and duties provided for by ORS 227.090, other state law, the charter, and other city ordinances. (2) The commission shall function primarily as a comprehensive planning body proposing policy and legislation to the council related to the growth and development of the community. In addition to the authority provided in subsection 1, the commission may: (a) review the Comprehensive Plan and make recommendations to the council concerning plan amendments which it has determined are necessary based on further study or changed concepts, circumstances, or conditions. (b) formulate and recommend legislation to implement the comprehensive plan. (c) review and recommend plans which relate to public facilities and services, and subarea plans which relate to the community to implement the comprehensive plan. (d) Assist in the formulation of capital improvement program. (e) review and make recommendations concerning any proposed annexation. (f) conduct hearing, prepare findings of fact, and take such actions concerning specific land development proposals as required by city ordinance. (g) advance cooperative and harmonious relationships with other planning commissions, public and semi-public agencies and officials, and civic and private organizations to encourage the coordination of public and private planning and development activities affecting the city and its environs. (h) recommend to council and other public authorities plans for promotions, development, and regulation of industrial and economic needs of the community in respect to industrial pursuits. (i) advertise the industrial advantages and opportunities of the city and availability of real estate within the city for industrial settlement. (j) encourage industrial settlement within the city. (k) make economic surveys of present and potential industrial needs of the city. (l) study needs of local industries with a view to strengthening and developing them and stabilizing employment conditions. (m) study and propose, in general, such measures regarding land development as

may be advisable for promotion of the public interest, health, safety, comfort, convenience, and welfare.”

Oakridge Economic Development Scope

RES. 11-2018 “the purpose of the Oakridge Economic Development Advisory Committee is to be an advisory body to the City Council and the City staff by providing input concerning economic development within the City of Oakridge or the Oakridge Industrial Park.” This committee is also known to discuss property sales at the Industrial Park.

Oregon Rule 860-001-0340: Ex Parte Communications

- (1) Ex parte communications are discouraged and, if made, must be disclosed to ensure an open and impartial decision-making process.
- (2) Except as provided in this rule, an ex parte communication is any oral or written communication that:
 - (a) Is made by a person directly to a Commissioner or presiding ALJ outside the presence of any or all parties of record in pending contested case or declaratory ruling proceedings;
 - (b) Is made without notice to or an opportunity for rebuttal by all parties; and
 - (c) Relates to the merits of an issue in the proceedings.
- (3) For purposes of this rule, a contested case or declaratory ruling proceeding is pending when the Commission or ALJ issues the first scheduling notice.
- (4) A person who has an ex parte communication must promptly notify the presiding ALJ that the communication occurred.
- (5) Upon notice of or receipt of an ex parte communication, the presiding ALJ must promptly notify the parties of record of the communication and place the following in the record:
 - (a) The name of each person who made the communication and the person's relationship, if any, to a party in the case;
 - (b) The date and time of the communication;
 - (c) The circumstances under which the communication was made;
 - (d) A summary of the matters discussed;
 - (e) A copy of any written communication; and
 - (f) Other relevant information concerning the communication.
- (6) The presiding ALJ may require the person responsible for the ex parte communication to provide the disclosure and notice of the communication required by this rule.
- (7) Within 10 days of the filing date of the notice, a party may file a written rebuttal of the facts or contentions contained in the ex parte communication.
- (8) The provisions of this rule do not apply to communications that:
 - (a) Address procedural issues, such as scheduling or status inquiries, or requests for information having no bearing on the merits of the case;
 - (b) Are made to a Commissioner or presiding ALJ by a member of Staff who is not a witness in the proceedings;
 - (c) Are made to a Commissioner or presiding ALJ by an Assistant Attorney General who is not representing Staff in the proceedings;
 - (d) Are made in rulemaking proceedings conducted under ORS 183.325 through 183.410; or

(e) The presiding ALJ determines are not subject to this rule, including communications from members of the public that are made part of the administrative file or communications that are the subject of in camera proceedings.

(9) To avoid inadvertent ex parte communications, a person planning to meet individually with a Commissioner or ALJ must indicate whether the discussion will relate to pending proceedings and, if so, which proceedings.

3. City of Oakridge Attorney Opinion

Most times when the planning commission meets, it is also a OEDAC quorum by their resolution. Is that OK?

Yes. If a quorum of a governing body gathers to discuss matters outside its jurisdiction, it is not "meeting" within the purview of the Public Meetings Law. (38 Op Atty Gen at 1474). While the purposes of both bodies are similar, clear communication that a meeting is accomplishing the goals of only the planning commission should prevent any unplanned meeting of OEDAC.

Is it OK to have mutual members between OEDAC and the planning commission? It is an interesting question as some land sales may eventually end up on the planning commission agenda as the property is developed.

Is it legally permissible? Yes. Planning commission membership is limited under ORS 227.030 and under the Oakridge Code Chapter 32, and neither source limits planning commission membership based on OEDAC membership. As a policy matter, the Council could determine dual membership on the planning commission and OEDAC is not in the best interest of Oakridge.

4. Administration Advisory Committee Areas of Concern

The Administration Advisory Committee is concerned with _____

5. Administration Advisory Committee Recommendations

The Administration Advisory Committee recommends _____