

9/13/2019

Gmail - Ethics Question



attachment for
councilor Hollett
3 pages

Chrissy Hollett <councilorhollett@gmail.com>

Ethics Question

MYERS Susan * OGEC <Susan.MYERS@oregon.gov>
To: Chrissy Hollett <councilorhollett@gmail.com>

Thu, Sep 12, 2019 at 4:05 PM

Chrissy –

As we discussed, the key to our analysis is to look at whether you are taking any action, or making a decision or recommendation, in your role as a public official that is to your private financial benefit, or that of a relative or a business with which you are associated. You have indicated that in addition to being a City Councilor, you serve as a volunteer firefighter/EMT for the Oakridge Fire Department, and that your husband is a Fire Department employee. You have also indicated that you do not vote on the City's budget because of the conflict of interest that would arise. Your question is whether you can accept a stipend that is paid by the City's Fire Department to all volunteer firefighters.

You are correct that because of your position as a Fire Department volunteer and your husband's position as a paid Fire Department employee, you would, as a City Councilor, have an actual conflict of interest in any discussion or vote on the City budget that includes the budget for the Fire Department. (See ORS 244.020(1) and (13)). You would also have a conflict of interest in any City Council discussion or deliberation related to appointment of or stipends for Fire Department volunteers.

ORS 244.040(1) prohibits a public official from using or attempting to use an official position to obtain a personal financial benefit or avoid a financial detriment for the official, a relative or household member, or any business with which the official, relative or household member is associated, if that benefit would not otherwise be available "but for" holding their official position. This means that in general, as a City Councilor, you are prohibited from attempting to obtain any form of financial benefit from the City (*i.e.*, a stipend) that a similarly situated member of the public does not have the same opportunity to access or obtain.

A public official is allowed to accept any part of an official compensation package. [ORS 244.040(2)]. An official compensation package is defined as the wages and other benefits provided to the public official. To be part of the public official's "official compensation package," the wages and benefits must have been specifically approved by the public body in a formal manner, such as through a union contract, an employment contract, or other adopted personnel policies that apply general to employees or other public officials. [OAR 199-005-0035(3)]. A stipend, if formally adopted by the public body, would be part of an official compensation package.

In this case, the stipend you reference appears to be part of the official compensation package offered to Fire Department volunteers. From the information provided, it does not appear that you would be using or attempting to use your position as a City Councilor to approve the stipend or even the budget for the Fire Department. Thus, it does not appear that you would be using your official position to obtain a personal financial gain that would not otherwise be available but for your position. As one of the Fire Department volunteers, you would be permitted to accept the stipend so long as you have not used your position as a City Councilor to increase the stipend or increase the number of days you get called out (thus, increasing the stipend days which you would be entitled to claim).

Although ORS 244.010(4) recognizes that public officials may hold more than one position in a public capacity, you must also be twice as diligent to ensure compliance with Oregon Government Ethics laws while serving in both positions, as a Fire Department volunteer and as a City Councilor. Issues concerning ORS 244.040 and conflicts of interest are probably most likely to arise in relation to personnel matters, such as compensation or benefits. For example, as a City Councilor, you cannot act to recommend or approve the stipends paid to Fire Department volunteers or deliberate on your continued appointment as a Fire Department volunteer. So you must remain vigilant and avoid any participation in City Council actions, decisions or recommendations that might have a financial impact on the Fire Department and its employees and volunteers.

Please feel free to contact us if you have any additional questions.

- Susan

Susan Myers

Investigator

Oregon Government Ethics Commission

3218 Pringle Rd SE, Suite 220

Salem, OR 97302

503-378-6808

****Disclaimer****

This staff advice is provided under the authority given in ORS 244.284(1). This opinion offers guidance on how Oregon Government Ethics law may apply to the specific facts described in your request. This opinion is based on my understanding and analysis of the specific circumstances you described and should not be applied to circumstances that differ from those discussed in this request.

From: Chrissy Hollett <councilorhollett@gmail.com>

Sent: Thursday, September 12, 2019 9:53 AM

To: MYERS Susan * OGEC <Susan.MYERS@oregon.gov>

Subject: Ethics Question

Good Morning Susan!

This is a follow up email to obtain the answer to my question in writing that I verbally asked over the phone. I need to know if accepting stipend for being a volunteer on the local Fire Dept is an Ethics Violation, while also being a City Councilor.

I currently already do not vote on the Annual Budget. As you are aware my husband is a paid employee on the Fire Dept, and I have already previously stated my conflict and did not cast my vote on the 2019/2020 budget. I have no positions of authority that recommends or decides how much stipend is budgeted for volunteers.

I do realize that both being a city Councilor and ALSO being a volunteer firefighter/EMT are considered public officials and if the topic should arise in a council meeting to discuss volunteer Stipend, I should recuse myself from that subject matter and/or vote.

Can you advise in writing the conversation that we had?

Thank you Susan!

--

Chrissy Hollett

Council President

Oakridge, Oregon

Follow me at:

<https://m.facebook.com/CouncilorHollett>

Attachment for Councilor Kinyon 2 pages

Councilor Kinyon 9/19/19

During the budget committee session earlier this year, it was discussed and agreed that the budget committee needed to meet to discuss a supplemental budget for 19-20 asap into the new fiscal year for a variety of reasons but mainly that the FD budget was not going to work . Then on July 25th the council made a motion that passed unanimously scheduling a budget committee meeting for Sept 12 and another on Oct 10th.

On the night before the Sept 12th meeting, I asked where we were meeting and had the budget committee been notified. Over the course of the next several hours I learned that Mayor Holston had previously discussed the matter with our CA. They must have decided not to have the meeting, and forgot to discuss or basically "inform" the council of their decision. Then she asks Bryan and Rick not to post the meeting, as it is canceled. Again making a decision for the council instead of with the council. This meeting was scheduled by motion and a vote of the council. (attachment: Pre Meeting Topics for Budget meeting Discussions) (attachment: email thread between Bryan, Kathy, Rick Z and myself)

My concern here is less about the reason the meeting was canceled - and more about the issue of the mayor, who is only one member of the council, meeting with the CA and directing him or making a decision together. You will see what I mean by reading through this email thread in order. That is not how it's supposed to work. Our charter outlines that all seven of us make up the council.

Now I have realized that on June 5th this year the mayor and our former Interim CA entered into an engagement contract with our CPA - without a discussion at council or council approval. Again undermining the value of the government as directed by the people of Oakridge through our Charter.

On a few occasions this year I have suspected the Mayor was directing our previous interim CA's but I was not a part of council then. I cannot prove it, but I have a strong suspicion based on the state of our Fire department, she has been influencing our CA's of her own will and not allowing the will of council.

For these reasons, I move to censure Mayor Holston.

From the Charter:

Section 6. Where Powers Vested. Except as this charter provides otherwise, all powers of the city shall be vested in the council.

Section 7. The council shall be composed of a mayor and six councilors, elected from the city at large.

POWERS AND DUTIES OF OFFICERS

Section 19. Mayor. The mayor shall appoint the committees provided by rules of the council. The mayor shall sign all approved records of proceedings of the council. The mayor shall have no veto power and shall sign all ordinances passed by the council within three days after its passing. Upon the approval of the council, the mayor shall endorse all bonds of city officers and all bonds for licenses, contracts, and proposals, and countersign all orders of the treasury.

(6) The administrator shall:

- (a) Attend all council meetings unless excused by the council or mayor.
- (b) Keep the council advised of the affairs and needs of the affairs and needs of the city.
- (c) See that the provisions of all ordinances are administered to the satisfaction of the council.
- (d) See that all terms of franchises, leases, contracts, permits, and privileges

granted by the city are fulfilled;

(e) Appoint, discipline and remove appointive **personnel**, except appointees of the mayor or council.

(f) **Supervise and control the administrators' appointees in their service to the city.**

(g) Organize and reorganize the departmental structure of city government.

(h) Prepare and transmit to the council an annual city budget.

(i) **Supervise city contracts**

(j) Supervise operation of all city-owned public utilities and property; and

(k) Perform other duties as the council prescribes consistently with this charter.

Budget Meeting

Dawn Kinyon <councilorkinyon@gmail.com>

Sep 11, 2019, 10:34 AM (2 days ago)

Bryan,

Do you have a time and location for the budget meeting tomorrow night? Might be good to send a reminder out to the whole budget committee?

City Administrator Sep 11, 2019, 10:44 AM (2 days ago)

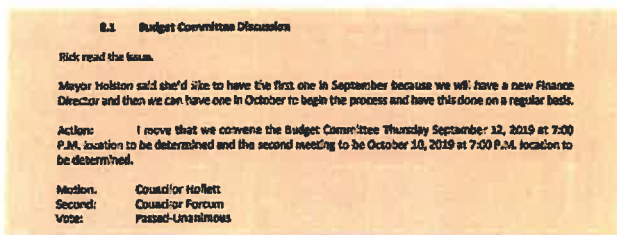
The budget meeting was tentative on my calendar and at this point too early. The first meeting must appoint the budget office and publish the budget message.

We can have a pre-meeting at some point which has very specific limitations on what can be discussed. I would recommend October timeframe.

Bryan

Dawn Kinyon <councilorkinyon@gmail.com> Sep 11, 2019, 10:53 AM (2 days ago)

to Kathy, City



Bryan,

This snip is from the July 25th 2019 council meeting. The budget committee convening again is not about the new budget season for next year, so I don't think we need to appoint a budget officer and have a budget message. This is supposed to be a follow up on the current budget that was passed at the end of June this year for FY19-20.

City Administrator Sep 11, 2019, 11:07 AM (2 days ago)

Well, a pre-meeting can be held to discuss issues in the attached. I am not back in town until Saturday. If you still would like to meet, please contact Rick and have him post the meeting today.

I regret any misunderstanding here.

Bryan

[local-budget-budget-committee-...Attachment](#)

Dawn Kinyon

<councilorkinyon@gmail.com>

Wed, Sep 11, 12:23 PM (2 days ago)

to Rick

Rick,

Can you please post a notice for the meeting tomorrow night? We have discussed this in council meetings and even set the dates with a motion. Please see the thread.

 Sep 11, 2019, 12:39 PM (2 days ago)

No problem,

Dawn Kinyon <councilorkinyon@gmail.com> Wed, Sep 11, 2:01 PM (2 days ago)

to Bryan, Kathy, Rick

Bryan,

It was my understanding that this meeting tomorrow was to review where we are in the current budget and talk about the supplemental budget that will be needed for the current fiscal year.

Looks like Rick is getting it posted.



Sep 11, 2019, 2:29 PM (2 days ago)

to me, Bryan, Rick

My apologies for not chiming in before on this issue. I just got through with a tour we gave Travel Lane and Willamette visitors center of Oakridge and the surrounding areas.

This budget meeting was deemed premature at a recent council meeting. Yes we originally had wanted a meeting in September to set up the steps for what was to happen and discuss the types of reports that Council may want to see. The wrinkle came in two forms. 1. the budget committee couldn't be convened to discuss the types of information we were having i.e. according to ORS we can't just convene the budget committee without a budget process in place for the next year or to review the past budget. That is not their function. I believe that Bryan and I discussed, that when the finance Dir was ready we could convene a sub committee of the council to look at this or do it in full council. and 2. The finance Director's audit has been much more intense than first thought and the time is not right yet to do anything. No we don't need a supplemental budget at this time, and the budget committee has no oversight over that anyway.

Further, Staff is not prepared with material and we as a council can better discuss what we want to see for reporting at a

council meeting. Let's put this on the agenda for next meeting and we can have a thorough discussion at that time.

No meeting should be scheduled for tomorrow evening. Thank you.

Kathy Holston Wed, Sep 11, 3:26 PM (2 days ago)

to bryan.cutchen, me, Rick

Everyone,

I'm going to do a little back tracking here. It appears that we did actually set a time and date for this meeting and we should have followed through with this when we realized that the numbers weren't going to be available but more importantly that a potential conflict was emerging regarding what we wanted to do and what we could actually do with a budget committee.

Bryan alerted me of this a bit ago, he and I talked and unfortunately it didn't get brought back to council and discussed thoroughly and a decision made as to how to proceed.

At this point, I will take the fall for this because I forgot to make sure Council discussed this and was aware of the potential issues. Let's re look at what we need and what we can legally do and bring it to council on the agenda for our next meeting. I will also make explanation at that time to the public as to why this fell through the cracks.

This just brings back up how important our motions log is. I currently run one that is only for me, but obviously I didn't do a very good job of checking back on it to be sure we were on top of this stuff - and additionally it never even made it to my calendar.

Thank you Dawn, for bringing it up and my apologies.

Because Staff has not prepared for this, the CA is gone and we still need to clarify exactly who can participate in this meeting, my statement that we should not have this meeting stands. I will ask Rick and CA to send out an email to Council cancelling this meeting.

Dawn Kinyon <councilorkinyon@gmail.com> Sep 11, 2019, 6:02 PM (2 days ago)

to Kathy, Rick, Bryan

Kathy,

I think its a great idea to add this subject to our next agenda.

Rick,

Can you forward this email thread to all council, so everyone has the background?

Rick did NOT follow up with letting Council know