

Cody Wingard: All right, commissioners, you are live.

Susan Mandiberg: Well, welcome to the subcommittee meeting. I'm going to start by saying this is the first formal meeting that I have ever chaired. So, if anybody would like to correct the way I'm doing it, I am open to correction. I'd like to start by going over... I guess the first thing on the agenda is to approve of the minutes of the last meeting. Has everybody had a chance to look at those minutes?

Rob Harris: Yes.

Susan Mandiberg: Is there anyone who would like to discuss anything in those minutes? Does anyone have an amendment or correction to those minutes? Is there anyone who objects to approving those minutes? That being said, I'll consider that the minutes of the last meeting have been approved, and we can move on to a general discussion of... Let's see, where are we in the agenda? Yeah, we can move to review and discussion of the proposed bylaws. So, this is a draft, obviously, and our goal at this meeting is to come up with a draft to present to the full commission in March. So, I'd like to start by discussing the goals that Mr. Deitrick and I had in mind when we sat down to put this draft together. And Eric, please feel free to correct me or add anything to what I'm going to say.

One of our goals, and this is in no particular order, was to resolve some of the ambiguities in the legislation because the legislation uses the word "commission" to apply to the somewhat volunteer members of this group, I'm saying somewhat volunteer because there's now a per diem, and also to apply to the agency staff. And although we understand that the legislative history was that a division was made in the different statutes, there are overlaps and ambiguities, and we wanted to try to clarify that as much as possible. So, one way we did that was to use language that was different. So, the voting and non-voting members of the semi-volunteer group we're calling the commission members, and we've divided those into voting members and non-voting members. The employees, the state employees at the agency, we're referring to as OPDC staff. And then the third is the executive director, when we're using the term executive director. So, we're hoping that those different terms will help resolve some of those ambiguities.

Second of all, we wanted to specify the precise activities and instruments that we will be working on. And to do that, we went through the various provisions of ORS 151.216. And in that statute, there are some redundancies and maybe some things that are not completely clear, but what we wanted to do was group things into categories as much as possible to avoid redundancies and making this even longer than it currently is. And so we tried to group those as much as we possibly could.

A third goal was to clarify the division of labor and authority between the commission, the OPDC staff, and the executive director's role in working with both the commission members on the one hand and the OPDC staff on the other hand. One of the criticisms that some of us have heard of the previous commission was that the lines of responsibility and authority between the staff and the commission members were not always clear. And we wanted to avoid allowing this group of members, voting and non-voting members, to become a rubber stamp for things that the agency did on its own. And so trying to clarify the responsibilities was another goal.

A fourth goal was to provide relatively precise guidelines for commission members' behavior generally and in some specific situations. For example, when there are complaints from members of the public, we wanted to be pretty clear about how those were going to be dealt with. And finally, we wanted to be as specific as possible, but also avoid having to amend the bylaws every year as the statute makes changes in 2025 and up to 2027. And of course, the Legislature could make changes anyway, but to the extent we could avoid going through this process every single year, we thought that would avoid a waste of time and be more efficient. So, those were our goals. Anybody have any questions or comments about our general goals?

Rob Harris:

So, just one potential suggestion here. I think it may help to some extent to have definitions included in the bylaws. So, for instance, I get the goal and stuff, but if you say, for instance... Because the [Inaudible 00:06:59] word of the agency includes commission, I know here we're talking about the commission and the agency differently, but like it says commission meetings. Well, I know that means meetings of the commission members or meetings of the commissioners, it doesn't mean meetings of the agency. So, I wonder whether early on definition that says, "When used herein, commission or the commission shall be the governing body," or something. OPDC staff means everyone except the executive director, and just sort of a short definition section. That way we don't have to worry as we go on through this multi-page document. That it's pretty clear what a commission meeting is, for instance, or when commissioners vote. It may not be necessary, but it just occurred to me because of the name of the agency and the name of the governing body are similar.

Susan Mandiberg:

I think that's a good suggestion. Does anyone have any opposition to adding something like that? Commissioner Parrish Taylor, does that work for you? Commissioner Smith? Is it okay with you if Mr. Deitrick and I go ahead and draft something like that? Great, okay. Thank you, great suggestion. Again, I understand how this works. You get so deeply into the weeds with these things that it's perfectly clear to you what you're doing, right? And I'm sure that happens with the Legislature also. So, I'd like to sort of go through it article by

article and see if anyone has any questions or any comments. Commissioner Smith?

Addie Smith: I love that idea. Is there any objection to screen sharing while we do that so we can all follow along?

Susan Mandiberg: I don't have the capability to screen share. I'm not in my own office, I'm visiting relatives. Does anyone else have the ability to screen share?

Eric Deitrick: Chair Mandiberg, I probably can.

Susan Mandiberg: I'm not running the meeting, so I don't have that, and I don't have another screen to share.

Eric Deitrick: Let me see here.

Susan Mandiberg: Great, thank you.

Eric Deitrick: Okay.

Susan Mandiberg: Okay, so if we're going, starting with Article 1, subsection (1) and (2) are just pretty straightforward. In subsection (3), the first sentence was something that pretty much existed before. And then after everything that comes after to that end is what we added to incorporate our summary of what was in ORS 151.216. Again, making it clear that the things that are outlined in 216, which we were told were meant to be for the OPDC staff, we wanted to make it clear that the OPDC in general, all of us, were responsible for all of those things. Any comments or questions about that?

Okay, moving on to Article 2. Membership is defined by 151.213. Rather than outline all the details of different categories and who appoints whom, which changes over the course of the next three or four years, we figured if the statutes get amended or whatever, that's still going to be what governs us. So, we figured that was satisfactory. The same with the appointments, same with termination. We wanted to be sure under (5) that people who choose to resign will provide sufficient notice. Onboarding and training, that's all going to be required by statute, so we're repeating it in the bylaws.

Rob Harris: Just one thing, possibly a typo, I think, under the Terms of Office, subsection (2), the initial terms created by SB 337, 2021 is meant to be the year of that Senate bill? I think it might be 2023.

Eric Deitrick: Yeah, Commissioner Harris, thank you. That is a typo.

Susan Mandiberg: Thank you. Where are we? We wanted to, in subsection (7), specify as well as we could the duties of the chair. And then finally with conflicts of interest, again, lay out as specifically as we could the difference between actual financial conflicts and potential conflicts and how those might be treated differently. Going to give it a minute to refresh your memory on those. We're good? All right. Ex Parte Contacts, this is obviously an area that is in possible flux because of the concerns about how to interpret the public meeting laws. Many people, not just the voting and non-voting members, have expressed concern to me about how difficult it will be to get a lot of business done if the voting and non-voting members of the commission can't speak to one another without it being very formally recorded and so forth. And I understand that both legislators and the Justice Department are reviewing how all that is going to be finally interpreted.

Meanwhile, we have to have something in the bylaws about that. So, this is what we came up with. We also wanted to make sure that the commission members didn't cause conflict and confusion among the staff or between the staff and the executive director by speaking with staff about substantive issues without the executive director being aware that those conversations were happening. And actually approving in her role as the director of the agency, approving of those conversations taking place. So, subsection (b) and subsection (c) are meant to make it clear that if commission members want to discuss substantive issues with staff, they really need to clear that in advance with the executive director.

Rob Harris: The only thing – excuse me, Susan – the only thing I would say is that with Jasmine and Brook on this commission, perhaps Addie as well, I'm not sure, there are going to be some times as contract administrators for their organizations, they do need to have substantive conversations with OPDC staff. I don't know how to phrase that, but I would hope that Jasmine wouldn't have to ask Jennifer's permission every time they needed to discuss a contract issue within their county. So, Eric, I don't know that's, or Susan, I don't know how to phrase that. I know that I'm assuming this really does...is directed towards commission business or something, but I'll leave that to you to address that, I guess, in the next draft.

Susan Mandiberg: We're first talking about consulting with Jessie, not with Jennifer.

Rob Harris: Yeah.

Susan Mandiberg: We're talking about the executive director. And so I wanted to make it clear that you understood that because you said Jennifer. But I think Commissioner Smith has her hand up, so let's hear what she has to say about that.

Addie Smith: Oh, I don't think I'll have any conflicts, but I appreciate that, Commissioner Harris. I was just going to say I support that amendment or revision to sort of carve out the specifics for those non-voting members. My question was more is this standard practice or did we borrow this language from somewhere? And if so, I'm just wondering a little bit of background on it. I mean, I understand the reasoning behind it.

Susan Mandiberg: I believe this was something that... We went through numerous drafts before coming up with the one we sent you all. I don't believe we took this from anything. Do you remember, Eric?

Eric Deitrick: Yeah, Chair Mandiberg. This ex parte contacts concept was taken from another agency that was in the previous packet for the last meeting, but the actual substantive language is different. So, this concept of how the governing board can interact with the staff it has oversight of is something that we took, but the language here is language that Chair Mandiberg and I developed trying to come up with the roles and how this would work.

Addie Smith: I'm wondering if folks are amenable to a language that's a little gentler. So, instead of authorization notice, it feels a little sticky to have to get permission versus keeping the executive director in the loop of when this is happening. But maybe I'm reading too much into it.

Susan Mandiberg: Well, let me just say two things. First of all, Commissioner Harris, it actually says in subsection C regarding agency business. And so I think that part of your concern is addressed by that. Part of the reason we wanted to require authorization was actually to protect agency staff. And this is also why we said it needed to be in writing. Voting and non-voting members aren't going to get in trouble by going ahead and talking to agency staff because who's going to get us in trouble? But agency staff could get in trouble by going ahead and having conversations with voting or non-voting members about agency business. And so at least I saw that as a way to protect the staff from misunderstandings. Now that maybe goes too far, but that was my motivation anyway.

Eric Deitrick: Chair Mandiberg, to Commissioner Harris's point, at least I wasn't thinking of the non-voting members who actually are engaged in the practice of public defense services when we were drafting this. So, I do think there are situations where Commissioner Reinhard and Commissioner Wright just in their role as contractors are going to need to interact with staff. And I think I can work with you on trying to clarify that distinction.

Susan Mandiberg: That works for me.

[Crosstalk 00:20:05]

Rob Harris: Excuse me, perhaps instead of agency business, maybe commission business or something. Although commission, yeah. If you see what I'm saying there.

Susan Mandiberg: Yeah.

Rob Harris: I get what you're saying. I think it's probably okay the way it is, but I do think down the road, they might have questions about exactly their scope. So, clarification might be good.

Susan Mandiberg: I agree with you because again, it meets our goal of being as unambiguous as possible. So, again, will you trust Mr. Deitrick and I to go ahead and come up with language? Jessie.

Jessica Kampfe: Thank you, Chair Mandiberg. Perhaps if you're doing a definition section, you could define commission members as commission members acting in their capacity, in their oversight capacity. And then anytime that you see the phrase commission members, people will know that it means when those members are acting in that oversight capacity as opposed to acting as the director of an agency or an organization.

Susan Mandiberg: That's a great suggestion. Thank you. And again, I apologize. I have to learn to be very formal instead of using first names. So, you have to bear with me. Unlike most law professors, when I was teaching, I did not call my students Mr. or Mrs., I used their first names. So, I'm not used to being very formal. Okay, so going down to the compensation and expenses. This is in the statutes, and we've just included it to cover all the bases. We are assuming under (10)(b) that the executive director will promulgate some standards and procedures for commission members to follow in seeking the per diems. And I understand that all of that is on the agenda for the retreat. So, any questions or issues about that?

Article 3, so Roles and Responsibilities. Again, a lot of this tracks the same language that was at the beginning. Article 1, again, our summary of what's set out in 216. And I think it's all pretty self-explanatory, but again, give everybody a minute to review it. And I'll leave it up to Mr. Deitrick to keep rolling what's on the screen. But if anybody has a question or a comment about what's currently up there.

Eric Deitrick: Chair Mandiberg, this is the point I think where I emailed you about this morning. So, one of the obligations we've assigned to the commission in the bylaws is to review, and down further you'll see approve, the annual report that's required by statute. And in the first meeting this year, we presented some reports that the agency was required to submit to the Legislature, to the

commission. And in our first governance meeting, we had a conversation about what the commission's role should be in reviewing and or approving those reports that the agency sends to the Legislature. And so I wanted to talk with you all right now and suggest we add language to sub (a) sub (iii) there, where it says, "Review the commission's annual report," and then put a comma and say, "And any legislative report referred by the executive director." So, that it's clear in the bylaws that when Director Kampfe has reports that she believes the commission needs to review before they go to the Legislature, that that can happen, and it's clear that that's one of the roles.

Susan Mandiberg: And that's a modification that I would approve of, for sure. Anybody have any objection to that? Okay, we will add that in as well.

Rob Harris: Maybe we're not there yet, but it's Article 3, section (1)(d). Yeah, "Voting members of the commission may advocate for or against legislation before the assembly." I'm assuming that means just as a representative of the commission. I think there was some actually emails on this just the other day. You can do it in your individual capacity, but maybe if we take Director Kampfe's suggestion about the definition where we say, "Commission members refers to when people are acting in their roles as commission members," that solves that, but maybe a little wordsmithing on that to make it clear that someone could advocate for a personal position.

Susan Mandiberg: Great suggestion. Okay, perfect. And again, you will trust us to try to add that. Yeah, great. Really appreciate the close reading that people are doing on this. It's very helpful to get out of what's been going on just between the two of us. Anything else in Article 3? We wanted to make it clear [Distortion 00:26:50] talk about subsection (2) under Executive Director. Again, we wanted to avoid the situation where staff members might think that it was their role to put together whatever documents or policies that they could bring to the agency, and the agency would automatically approve. We wanted to be sure it was clear that the agency was in charge of giving directions on a variety of things, and that staff were to carry out the commission's...the voting and non-voting members' policies. And so the hierarchy is that the executive director, of course, is in charge of making sure that the staff do what they're supposed to do. And so in subsection (2)(a), we added the language about the executive director ensuring that the agency carries out the policy directives established by the commission. And then in subsection (3), we wanted to make sure that then it was clear that the staff should follow through that hierarchy. And if anyone has anything to add or subtract from that, this is a good time to say it. We're all good? All right.

So, three kinds of meetings that we anticipate might occur – regular meetings, special meetings, obviously, and then emergency meetings. We thought it was important to have a plan for possible emergency meetings for things that really

had to be dealt with right away. And we took a lot of the language from this emergency meeting provision from the Idaho commission bylaws that were circulated to this subcommittee earlier. We thought it was important to define what an emergency is. And in those Idaho bylaws, since the commission or the agency there is very different structurally from ours, it mostly dealt with injury or damage to persons or property or immediate financial loss. We imagine that it's possible that we might have to deal with damage to persons or property now that we will have state employee trial-level public defenders, and we will have to deal with getting offices and so forth for those folks, and people will be visiting them in those offices. So, we kept that.

But we also thought it was important to add something about disruptions to the provision of public defense services that would require an immediate response. I don't know offhand what exactly that might be, something that couldn't wait until a special meeting, but anticipating worst-case scenarios, we thought it was important to add something about that into the definition of an emergency. Obviously, public meeting laws require even emergency meetings to be noticed and made available and so forth. So, we tried to cover all of that. Any questions, especially about the emergency meeting provision? Good, okay.

Executive sessions, the statutes allow us to have executive sessions and 192.660 has this huge, long list of the kinds of things that can be covered in executive sessions. We talked about going through and cherry picking the ones we thought would apply to the commission. But then again, thinking that the Legislature can always amend all that, we figured that in this situation, just referring to the statute would be sufficient. Quorum, public meeting laws, all of that, agendas and planning and meeting materials. In subsection (d) of that, we thought it was important to specify how an agenda could be modified. In subsection (a), we thought it was important to be very specific about how voting and non-voting members can request items to be put on the agenda. Again, so that there are no misunderstandings. Yeah, Commissioner Harris.

Rob Harris: Thank you, Commissioner Mandiberg. I had a couple of comments on subsection (7) if we're still talking about that right now.

Susan Mandiberg: Yeah.

Rob Harris: So, my notes here, which I can barely read, I think under (b), the goal of publishing the materials within a week, I think you should just say they shall be published within a week, excepting for good cause maybe. I think that when it's simply a goal, it can be blown through without any real consequences or thinking like, "Oh, well, you know, that's just a goal." It's a guideline, it's like the pirate's code. But I think if you just put it in there, knowing that there will be certainly times because things move fast sometimes, but just say that it shall be



published within a week. And if you want to say excepting for good causes found by the director or whatever. But I think for the staff, I think that would be a better post to stick in the ground.

I don't see anything here about when materials will get to commissioners. Maybe I missed that. I would certainly like to have them at the time that the, you know, one week, just like the agenda items. I would think the materials would be ready within a week. Again, except for good cause because things happen beyond our control. And maybe adding or changing the agenda with the joint consent of the director and the chair, something like that. I just think a real problem historically here, and a lot of the providers are very concerned and at times frustrated, is not getting materials posted on time, not knowing what the commission's going to do. And not only that, but not really being able to evaluate how that will affect them or to give actually valuable input to the commission because they have not had sufficient time to absorb or consider the stuff. So, I think this is a really important thing for us to get, to be more transparent and allow appropriate and valuable input. So, I'd like to see this strengthened.

Susan Mandiberg: Okay, so you don't think that the... So, I think we thought that subsection (b)(1) would take care of that, with the no later than 96 hours in advance of the meeting at which they will be considered. You don't think 96 hours is enough?

Rob Harris: Well, I'm looking at subsection (7)(a), I guess. Maybe that's what I was more concerned about. Where would I see this?

Susan Mandiberg: Subsection (b)(1) says, "Action items and relevant materials shall be published no later than 96 hours." And then subsection (c) talks about the materials being in plain English, technological language defined and clarified, all acronyms explained in full the first time they're used. So, we sort of thought of (b) and (c) together as giving enough time and making sure that whatever we were given was comprehensible. And I'm wondering why that's not enough?

Rob Harris: Well, subsection (b), not sub (a), but just subsection (b), not subsection (i), says shall publish the agenda and meeting materials in advance, with a goal of publishing them a week in advance. So, my first suggestion is why...

Susan Mandiberg: Do you want everything a week in advance? You want everything... Okay, so there's a distinction between action items and other things.

Rob Harris: Right.

Susan Mandiberg: So, you want everything...action items are not 96 hours in advance?

Rob Harris: A week in advance.

Susan Mandiberg: A week in advance.

Rob Harris: Because to me, it seems like action items should be ready well before any other items, informational items, for instance, because these are items we have to consider. I'm assuming they're more major issues because they're coming before the commission for an actual vote. I mean, other items like some of our informational items where there's no action being taken to me are less important. I guess that's why it says 40... So, I guess it looks like you're saying the agenda and materials are published hopefully a week in advance. However, it looks like you're saying action items shall be published 96 hours in advance. By the way, if that's a weekend, it really cuts down to two working days, probably. Other items, non-action items, 48 hours in advance, which again, although we don't do meetings on weekends normally, I guess that's probably not a big deal. I guess I just don't understand. Well, I'll listen from Director Kampfe. My opinion is everything should be ready a week in advance, I guess, absent good cause.

Susan Mandiberg: So, I'd like to hear from Director Kampfe, first of all, a response to the time issue, but also the second thing that Commissioner Harris suggested was except for good cause as found by the director, and I am concerned good cause is often in the mind of the beholder. And I'm concerned that the director not be put between a rock and a hard place between whatever problems the staff are having coming up with meeting that time limit, and pressure by the commission in determining whether there is good cause. So, those are the two things that Commissioner Harris mentioned that I would be interested to hear Director Kampfe's reaction to. And we could wait and hear what Commissioner Smith has to add, and that might be more efficient. So, Commissioner Smith, what do you have in mind?

Addie Smith: Sure, thanks. So, I know these are terms all of us who are on boards are familiar with, but I think since we've discussed the definition section, it could be really helpful to define action items versus other items. I also think rather than relevant materials, we may want to say corresponding materials because I think that is what the commission is trying to get at is whatever goes with that item needs to be posted at that time. And I think "relevant" could be a little more loosely interpreted, so that's a suggestion. I tend to agree with Commissioner Harris based on some of the reactions we've had at meetings and the volume of documents we've already received, that to the extent we can aim for a week at least for action items. I'm really open to compromising on other items, but I actually think a week would be incredibly helpful based on this commission's deep well of knowledge and desire to be intimately familiar with anything that they're approving. I think otherwise, it's going to be difficult. I also think section

(d) has a technical edit that's necessary. I think amend the "agenda" up until the start of the meeting is what's anticipated there. And just organizationally, it may make more sense to put that closer to section (a), which is about the development of the agenda because those could flow together a little better because it's sort of odd to talk about the agenda then talk about publications and then go back to being able to change the agenda.

My only other concern, and this is not a hill I feel like I need to die on, but I'm trying to figure out in terms of when the agenda becomes available and when folks request items be added to the agenda, is it better to require the request for or after or both? Because I can see pulling up the agenda, looking at it, and thinking to yourself, "Oh, my gosh, I thought we had decided blah, blah, blah was going to be on the agenda. It's missing, I'd like to request that it be added." But I don't have a magic solution to that because I also understand that you would want to get all those requests in advance, but it is something that occurred to me as I was looking at how these timelines all align. And I think as continuances are always an issue, or the equivalent of a good cause is what I'm thinking, we could make it that it's the chair and the director together who collectively determine that there's good cause as just a potential compromise. So, it's not all on one person's shoulders and there's representation from the agency side and the board side when making the decision that something can be published late and for whatever reason, so just a...

Susan Mandiberg: That makes sense to me.

Addie Smith: ...series of potentially helpful or unhelpful thoughts, but I agree, I think this section is going to be really important both to commissioners and I know the public has, as Commissioner Harris has stated, really wanted to know more in advance what's going on.

Susan Mandiberg: Great. Good input. Director Kampfe.

Jessica Kampfe: Thank you, Chair Mandiberg. So, I think that there's a lot of shared goals here, where the agency wants to provide high-quality, well-researched materials to the commission, and have the commission and the public have sufficient time to consider and think about those materials and then have meaningful discussion and vote. So, I really appreciate the attention that's being given to this provision because I think it's really foundational to our ability to have that oversight and deliberation. And a lot of this goes, I think, to cadence. And so historically, one of the challenges that the agency has faced is that with commission meetings every four weeks, the commission would frequently assign a body of work to the agency to do in one commission meeting and then it would be before the next commission meeting. And a lot of times that body of work involved a lot of staff time and resources to accomplish. And so when that was happening with a

number of agenda items on a short timeline, it was really difficult for the agency to get those materials to the commission in a timely fashion. And quite frankly, that perpetuates the problem, right? Because then the commission doesn't have enough time with the materials, and they carry it for another meeting.

Our goal as an agency is to start bringing briefings on big issues to the commission in one commission meeting, and then the following commission meeting to have the commission vote on the item. So, our hope is that you won't be both hearing about something for the first time and voting on it in the same commission meeting, that those would be two different commission meetings. And we're doing that with the expectation that that will allow for that more meaningful discourse and time to digest the information before a vote has to happen. And hopefully that helps slow down the cadence of these things. And so I don't have any particular feelings about the one week. I just wanted to give that background information that one of the challenges that we have had in getting the materials out early is when a commission meeting assigns new work to the agency, we really only have three weeks to do that work to meet a one-week publication date. And so depending on the body of work, that may or may not be sufficient time for the agency to do high-quality work.

Susan Mandiberg: So, I think that there may be ways to reflect these goals and express the time limits that would be reassuring to both the public and the members. I'm concerned that your goal of presenting a briefing in meeting one and an action item in meeting two won't work if there's an emergency situation that has to be addressed, right? And it may be that Commissioner Harris's and Commissioner Smith's ideal of one week before the meeting in terms of getting materials may be hard to meet in an emergency situation. So, it may be that we need to, as we made a distinction between regular and special meetings on the one hand and emergency meetings, there may have to be some provision in here for setting out the expectations but having a provision for emergencies. What do people think about that? I mean, that sort of relates to the good cause issue, right?

Rob Harris: Yeah, I mean, you could even preface that subsection about getting the materials in the timeline, excepting in instances where an emergency meeting has been called, blah, blah, blah, which would give you actually more flexibility than setting out specific rules for emergency meetings.

Susan Mandiberg: Well, let's see what we can come up with.

Rob Harris: But I feel pretty strongly that if we're going to have an action item, I feel pretty strongly we should have the corresponding, which I like that Addie, Commissioner Smith, corresponding materials, which is what the agency is going to rely on to support this action item probably, for a week. And not only that we

have them, but they're available to the public and to the individuals who are impacted.

Susan Mandiberg: No, I agree that obviously a week is better than 96 hours. So, let's see what we can come up with. I see Mr. Deitrick has his hand up, but before that, let me ask, given how important it is to get this section right, does this group want to have another short meeting before the March retreat to go over what it is we come up with or not? Think about that for a minute while we hear what Mr. Deitrick has to say.

Eric Deitrick: Thanks, Chair Mandiberg, members of the subcommittee. I guess kind of two pieces here. One, to Commissioner Harris's point, and this is really good feedback because this has been an ongoing issue for the agency. At least in my mind, the 96 hours for action items and 48 hours for briefings was an attempt to kind of define good cause. At least that's how I was thinking of it. In other words, if we can't get it together on an action item within four days before the vote, we're just going to have to not do it at that meeting. But I appreciate the other ways we could phrase it in terms of it not being a goal, but being a shall. So, the second piece is, Commissioner Mandiberg, I did have it on the agenda that we would be meeting again, I believe, March 14th as a subcommittee one more time before the retreat, at the very least so that the subcommittee could take a vote on recommending the draft presented at that time to the full commission. So, I do think it would be helpful to have one final, even if it's just a small meeting before the retreat, a short meeting, I should say.

Susan Mandiberg: Okay, and I see that I stand corrected that it's not an action item on today's agenda to vote on sending these to the full commission. So, excuse me for that misunderstanding. Any other discussion on agendas and planning and meeting materials to give Mr. Deitrick and I guidance on how to redraft this section? And is there anyone else who would like to meet with us in redrafting this section? I didn't think so. Okay, we'll see what we can come up with.

Moving along to subsection (8) on the Conduct of Meetings. We address the issue of knowing who's here and who's speaking, and we thought it was important to have people identify themselves when they're at meetings. And we can't as easily control what the public does, I think, but we can certainly in the bylaws indicate what we expect of voting members and non-voting members and OPDC staff in terms of having at least their names clear with their pictures in Zoom meetings. We made a distinction between members and staff. We think it's important for members to have their meetings on, but we think it's not as important for staff because staff is also often doing work in between when it's important for them to be participating and so forth. But I'm certainly open to reactions and suggestions about those issues, the issues of names and cameras. Commissioner Smith.

Addie Smith: I would just say, are folks comfortable with saying the majority of the time and any time a vote is taken? I don't have any problem having my camera on, but for example, if it's a long meeting and I would like to run to the restroom or grab a snack, I may turn my camera off for that two minutes. And depending on how literally these rules are written, I just don't want that to feel like a deterrent. And others are obviously welcome to disagree.

Susan Mandiberg: I had exactly the same concern.

Addie Smith: [Laughter]

Susan Mandiberg: As you know, sometimes these meetings are long and I'm old, but the reason we ended up with this is that if there is no quorum, then you can't have a meeting, right? And so if the camera is off, we don't know if the person's actually there. You don't just need a quorum to take a vote. You need a quorum to have a meeting. And so I would be thrilled to be able to say that people can turn their cameras off to run to the [Laughter] bathroom, but I think we need to have a way to make sure that if that happens, we still have a quorum. And I'm certainly open to suggestions for how to accomplish that.

Addie Smith: I wonder if there's a way to just say at all points in time, a quorum of members shall have their cameras on and then we can all gently do the math between bathroom breaks. [Laughter]

Susan Mandiberg: We could certainly try that. Since Mr. Deitrick is the one who's in charge of seeing if we have a quorum, maybe after we hear from Commissioner Parrish Taylor, he could weigh in on that.

Jennifer Parrish Taylor: I'm sorry, and I don't mean to be disrespectful, but this feels a little ridiculous to me. Like I'm going to do what I need to do, we're adults. I understand issues about quorum, but if I'm in the digital room, the expectation is I am here. So, yeah, I just feel like this is overly proscribed to a level that it doesn't have to be. I think it's just being overly complicated, but if I'm mistaken for rules and we need to have it, then fine. But yeah, this feels ridiculous.

Susan Mandiberg: Yeah, well, I definitely hear you. And I don't know the rules about quorums in virtual meetings. So, Mr. Deitrick or Chair Kampfe, if you think it's okay for us to adopt the rule that if you're in the digital room, we assume you're present, that would certainly be a more comfortable way to deal with this.

Eric Deitrick: Yeah. Chair Mandiberg, I mean, this is just so interesting because we didn't have meetings like this three and a half, four years ago. The whole virtual meeting, at least for I think a lot of state boards and commissions in Oregon, has become a

new thing. The number one priority is ensuring that we have a quorum, and I don't know how to ensure we have a quorum unless we can tell that people are here. So, I do think to Commissioner Smith's comment, I think there's adjustments we could make here to ensure that we have a quorum. I don't know if we can assume that when someone's in the digital room, they're present in the meeting. And I'm happy to reach out to see if other state commissions have engaged in this issue. I can say that during meetings, some of our staff spend time trying to figure out if we have a quorum or not because it's not readily obvious. And it's something we do have to monitor and ensure is happening, so.

Jennifer Parrish Taylor: Can't we just do a roll call at the beginning of the meeting?

Susan Mandiberg: Well, but you have to have a quorum throughout the meeting is what I understand. Since this is a statutory requirement to have a quorum throughout the meeting, as I understand it, perhaps you could check with the Justice Department, with Lisa Taylor or someone else to see if they have a recommendation for how to resolve this.

Eric Deitrick: Yeah, I'm happy to. Thank you.

Susan Mandiberg: Because I agree with these comments that it's kind of a straitjacket and also on some level demeaning to have to have this in there. Okay, we'll look into that.

Rob Harris: I want to just chime in a little bit. I agree with Commissioner Parrish Taylor 100%, but I also understand sort of the problems of quorum, but sort of point out if we were in person and someone went to the bathroom or went and got a cup of coffee or went to the back of the room and was getting a cup of coffee, but still listening, still present, it's sort of like me turning off my camera. So, when I carry my laptop down to the kitchen to make myself some jelly toast or coffee or something, but I'm still there and listening. I'm able to quickly click on my unmute button and talk. So, I don't know how to address that, but I think it's very similar to an in-person meeting. Maybe if you take your camera off, you just put a notice, still here. I don't know if that's what we need to do, but there should be a way to turn the camera off when we need to.

Susan Mandiberg: There should be, let's see if there is. [Laughter] We'll see what the Justice Department says about it. Anything else in subsection (8) about conduct of meetings? So, then the next thing is subsection (9), Public Comment. I think that this mostly tracks what has been the case so far, but again, take a look, see if you have any comments or questions.

Rob Harris: On a written comment that's submitted late, which quite often happens, it seems like it's been the practice of the staff to go ahead and get that to

commissioners anyway, just whenever they get it, even if it's the day of, which I've always appreciated. Has that changed recently, or is this sort of the policy that it's always been? Like if it's not on the five o'clock prior to the meeting, that commissioners don't get it? I'm just sort of curious about that.

Susan Mandiberg: I think they have given them to us.

Rob Harris: Yeah.

Susan Mandiberg: I remember at the last meeting getting something maybe five minutes before the meeting. [Laughter] And again, this sort of circles back to having time to look at things. And if in fact we are publishing the agenda and the materials a week before the meeting, is it really such a problem to ask the public to get us things by the day before the meeting if they'd like us to consider it? Because I really couldn't read very carefully the item I got right before the meeting. It sort of replicates the problem of getting staff material too close to the meeting. I think the public input is really important, and I'd like to be able to give it my full attention and consideration. That was my thinking. Commissioner Smith.

Addie Smith: I want to be really cautious about how I say this because I want to always be able to take into consideration everything that's coming from the public, but I wonder if there's a way that, I mean, it gets at this, the day before is even pretty close to a meeting. I wonder if we could set the same non-action item deadline for the receipt of letters, concerns, or comments, but also guarantee that if it's received after that time, it will be rolled over to the next meeting and sent to commission members. So that we can honor and read and give attention, the same amount of attention to those pieces of input as the pieces of input coming from staff.

Susan Mandiberg: So, let me see if I understand what you're saying. You would like input on action items to come a week before the meeting and everything else or...

Addie Smith: I was just going to say any public comment we could treat similarly to non-action items because I do think we want to give a lot of grace, as our role to accept and hear from, but setting more than a day before deadline might be helpful. But obviously, I think giving the commission that information after the meeting. And then of course, to the extent that it's relevant to the next meeting, ensuring that we receive it in our meeting packet for the next meeting as well.

Susan Mandiberg: Good, good.

Addie Smith: I do think if we make this change, it's going to be something we want to sort of be really public about and make an announcement about and be really clear



about, and I understand this may not be a popular change. So, I don't feel super strongly, but I agree that I want to be able to consider it seriously. And as things float in the night before or the day of, it's really hard to do that.

Susan Mandiberg: Okay, we'll take a shot at that. Subsection (10), Action Items. I think that is what has existed. Subsection (11), Motions. Commissioner Smith. Your hand, it's down, okay.

Addie Smith: That was my mistake, I apologize.

Susan Mandiberg: Not a problem. And then subsection (12), Voting. We had agreed at our previous meeting that we thought people should have to vote either yay or nay. And we wanted to make sure that people had a chance to explain on the record, or not that they would have to, but they would have a chance to explain on the record the reason for a vote. And especially if that involved a conflict of interest, make sure that people could do that. And certain conflicts, of course, under this have to be expressed. So, any questions about that or subsection (13)?

All right, so now we're talking about committees. We thought about the term subcommittee. We don't have any committees because we're actually a commission, but we thought subcommittee would be clear, so we kept that. The audit committee we have a separate provision for because it's not really a subcommittee of the commission. It's a special committee. It's advisory. It's not a governing body. I don't think we want it to be considered a governing body because we want it to be able to meet in a functional way. Certainly when they give a report to the commission, that becomes a public meeting. So, we put that in a separate provision. And the legislation says that the executive director, I'm in (3) now, the executive director can put together advisory committees and workgroups. We thought it was important that that be done in consultation with the chair, and we thought it was important to lay out the categories of people who could be on advisory committees and workgroups. So, that's in subsection (b). Any input on that? Commissioner Smith.

Addie Smith: I have a quick question. I guess I'm just wondering if it would be helpful to allow, at the discretion of the chair or the executive director, to allow the formal committees to also invite members of the public in an advisory capacity, in addition to members of the staff. Because it may, I mean, for governance, probably not, but depending on the work of the subcommittee, it may be really helpful to be able to have individuals engaged in practice or individuals from communities who are affected to also weigh in on the work of some of our subcommittees.

Susan Mandiberg: You're talking about Article 5 sub (1) sub (d), we could add members of the public.

Addie Smith: Yes, that's exactly what I was going to suggest because I think I can see areas where it may be really helpful to have that expertise at the table with us as well.

Susan Mandiberg: That's a great suggestion. Anybody else have a problem with that? All right, we'll add that. That's great. Thank you. Okay. Article 6. Okay. So, we thought it was really important to give some guidance and protection in terms of how to deal with grievances coming from members of the public. Remember at our previous meeting, we talked about trying to make some distinctions between grievances that were best handled by OPDC staff, at least in the first instance, and grievances that were probably best handled by commission members. In any case, Article 6 was our first shot at trying to give some guidelines for getting through all those issues. And again, this was our first shot, and I anticipate that other people will have great suggestions and concerns about what we have down here. So, this is really a basis for discussion. Commissioner Harris.

Rob Harris: Yeah, first of all, I thought this was pretty good what you had done here, but looking at sub (1), it says the chair shall have the sole discretion to either put it on the agenda or not. There's another part of the bylaws that talks about if the chair doesn't put something on the agenda, some commissioners can ask that it be placed on the agenda or something. So, would that still apply to this, or is this sort of a more specific, which would overrule that part of it?

Susan Mandiberg: I was sort of thinking of it as existing in tandem with that other, so that the chair would have the discretion to put it on, but a member could ask for the agenda to be amended. But if you think that needs to be made clear...

Addie Smith: May be easier to just do a cross-reference back to that section. It can be put on the agenda pursuant to section above.

Susan Mandiberg: I think that would make it clearer. So, I think that's a good idea. Okay. So, is there anything that is missing [Laughter] from all of this in your opinion? Is there any issue that we should have covered that we haven't covered?

Rob Harris: Well, we don't know what we don't know, right, as somebody once said, but this is a really good job. I think this is... Thank you, Commissioner Mandiberg and Mr. Deitrick. I think this is really well done. I appreciate your work.

Susan Mandiberg: Commissioner Smith.

Addie Smith: Chair, I'm wondering, one of the things we talked about at the last meeting as a potential change in practices is when it comes to public testimony, if there are a lot of people that are present and we're at limited time, limiting that testimony to three minutes are things that other public bodies, the Legislature, county

commissions, etc., do. I wonder if just as a matter of good practice, we want to include somewhere in here in terms of how meetings are run that the chair may choose to limit public testimony to a certain amount of time or something, just because I know this is a tool that's going to be really important to the public who comes to us as well. And it could be a way to formalize that practice or make that option known to the folks who are feeling like...

Susan Mandiberg: It's right now limited to three minutes in the meeting.

Addie Smith: Oh, is it? And I missed that, I'm so sorry. Thank you. Then I rescind all comments.

Susan Mandiberg: No, no, no, let me make sure I'm right.

Addie Smith: Abandon the argument.

Susan Mandiberg: Let me make sure I'm right. Hold on because that's what I remember, but public comment. The chair shall allow all... So, I'm in for Article (4) sub (9), sub (a). The chair shall allow all reasonable requests for public comment. Public comment shall be limited to three minutes unless in the chair's sole discretion more time is allowed.

Addie Smith: Perfect, even better than what I was suggesting. I take it all back.

Susan Mandiberg: [Laughter] Okay. Commissioner Parrish Taylor, is there anything you would like to add? Anything that you think that we've missed?

Jennifer Parrish Taylor: I mean, the only thing I can think of is if... We've talked a little bit about this in terms of how do we provide opportunities for folks with lived experience who are not on the commission to engage in the process outside of just public comments. And so whether that's through invited guests or subcommittees, really just thinking through that or just being cognizant as we move forward of providing those spaces for folks to show up in that way.

Susan Mandiberg: I think one way to do that would be when we're talking about who can be invited to attend subcommittee meetings or who can be invited to be on these advisory boards, we could put in language to say something to the effect that consideration will be given to ensuring the input of providers and people with lived experience or something to that effect. Would that be useful? I think that might be useful. What do you think?

Jennifer Parrish Taylor: Yeah. There was legislation that, was it passed? Or whatever, in terms of making more equitable work groups. And I know through the process of Senate Bill 337, my concerns were the language as written doesn't actually get you to a diverse

commission, quite frankly. So, I think to course correct, having some language around, at a minimum, having someone with lived experience should be a part of the subgroup, not just made priority but they have to be a part of the makeup.

Susan Mandiberg: Let's see what we...

Addie Smith: Also wondering if anywhere in there we talk about it's a "may" not a "shall," but the commission's ability to hold listening sessions and invite guests, just to clarify that those are things that are within the discretion of the chair or the commission to do. And the other thing that I apologize if I missed is do we have anywhere in there that accommodations will be made for any individual who wishes to attend that may need sign interpretation at the bottom of the screen, closed captioning, or anything like that? Because I really want to make sure that we're not forgetting accessibility concerns also.

Susan Mandiberg: Great.

Addie Smith: So, sort of if you request within 24 hours or something that's reasonable to staff, but also offers the opportunity for individuals who may have additional needs to participate, to participate, I think would be important.

Susan Mandiberg: Great. Commissioner Harris.

Rob Harris: Thank you. Thank you, Commissioner Mandiberg. So, perhaps in Article 1, where we're talking about adding a short definition section, we can also expand the mission. Right now it's all the statutory mandates, but also our mission should be to listen to unrepresented groups, to other stakeholders, not just the lawyers and the providers and to include them, include underrepresented folks and people in our meetings and make them accessible. Put some language in there that makes it clear that that's part of the actual mission statement, and so it applies to every single thing that's included in our bylaws. And then under Conduct of Meetings, perhaps make sure that the meetings address the mission or something. If you want to tie that together with presentations to meetings, but I think putting it possibly in the mission statement would be important as a statement of our group, as well as it would then apply to every part of the interpretation and the application of our processes.

Susan Mandiberg: Great suggestions. And Mr. Deitrick, we should check in with each other to have a couple more meetings.

Eric Deitrick: Chair Mandiberg, I agree. And I want to thank everyone for their comments today. This is really helpful. The plan will be, if it still works, I remember when we checked in last time, I think we had the availability of you for March 14th,

same time, nine o'clock in the morning. Between now and then, I will work with Chair Mandiberg on making the updates that we have discussed. And I think that if any of you have ideas on language of things we discussed today, particularly I'm thinking about the agendas and meeting materials or any of the other issues, perhaps you could send them to us in an email by early next week.

Susan Mandiberg: I would ask you to send them to Mr. Deitrick and not to me, at least not to me at my normal email. Send them to Mr. Deitrick, please, and he will make sure that I get them. And would people like us to circulate the new draft significantly before that March 14th meeting? We'll do it as far ahead of that meeting as we can. We'll have to see when he and I can find time to meet, but what we'll do when we do circulate the new draft is we'll – again, tell me if this is a good idea or not – I think it would be good for you to be able to see what's different. So, sometimes circulating something with track changes gets very confusing because it has all that stuff on the side, but what we could do instead is put the new language in a different color and put the cross-outs in a different color. So, for example, the new language could be in red, and the cross-outs could be in red. And I think that would make it easy for everyone to see what we've done in response to the comments here today. So, would that work for folks? Okay, yeah, I see nods. Well, we're early. I can't imagine anybody would object to stopping a meeting a half an hour early. [Laughter] Does anyone have anything to add that hasn't been said yet?

Addie Smith: Thanks for all your hard work. Putting pen to paper is always the task and passing back those drafts is no small feat. So, I appreciate you doing all of that. So, it was easy on the rest of us.

Jennifer Parrish Taylor: Agreed.

Susan Mandiberg: Thank you all for these great comments and really good input because obviously, this has to be a group effort. I think this is a very thoughtful group. So, we appreciate it. We'll get it back to you as soon as we can. Thanks, everybody.