

Chair Susan Mandiberg: Well, welcome, everyone, to a meeting of the OPDC Governance Subcommittee, and we have present committee members, Jennifer Parrish Taylor, Rob Harris, Addie Smith. I'm Susan Mandiberg, the chair. And also on the panel is Scott Martin, who is an agency employee. Scott, I'm sorry, I forgot your actual title. It's not on the tip of my tongue. Do you want to say what it is?

Scott Martin: This is Scott Martin, yeah, I'm the chief audit executive.

Chair Susan Mandiberg: Thank you. I'm going to make some changes in the agenda. We're going to discuss the Audit Committee Charter first. And I think we need at least 15 minutes to do that rather than the 5 minutes that was originally on the agenda. Then we'll discuss the email situation and then we'll discuss bylaws, and finally, talk about fixed dates for committee meetings and then new business. So, starting with the Audit Committee Charter, Rob, you want to start with a progress report on where we are with this?

Rob Harris: Yeah, sure. Thanks, Susan. There's three documents attached to the agenda. The first would be starting on page two, that... Well, actually, I'm going to start with the third one that's attached here, which I think is starting on page – committee charter, apologize while I scroll through this – starts on page 13. That was a draft by the Audit Committee that was before this Governance Subcommittee, at the last or the one before that meeting, I don't think that we had a quorum last time. And we went through that draft and some of the changes that were suggested were made in red. I believe this is historically accurate. That, with those red lines, went back to the Audit Committee. We had a meeting, and I don't know the date, but it was September, I believe. And based on the request of this committee, the Audit Committee came up with the draft starting on page two.

So, the one on page two incorporated one of the original Audit Committee's charters and took the feedback from this Governance Committee. Between those times, I think general counsel and Scott Martin and John Hutzler [Phonetic 00:02:49], the chair of the Audit Committee, talked about how to incorporate those changes. I believe that we did. That was presented to the Audit Committee. And so Scott came up with the incorporated changes, and then the Audit Committee had a couple of items as well, and those are in red on the document that starts on page two. And you can see the two items that the Audit Committee discussed that I don't know that were before the general... This subcommittee would be on page five, and that's about removal of members who don't show up, and that will be done. If they just don't show up, the committee chair can remove them. Otherwise, they can be removed with cause by majority vote of the Audit Committee.

And then the last item, we talked about confidentiality. And the issue came up about, well, you just can't say everything's confidential. There's certain state statutes about freedom of information and public records that we have to be complied with. So, we put that general statement in there, and that's what we came up with to deal with that particular issue that we had. That document went to Chair Susan Mandiberg here, and Susan came up with a renumbered...took that and largely just renumbered it and reorganized it in a couple of sections, which I went through yesterday. And so she added – I'll let you talk about that, Susan – my understanding is she added the blue text to make her reorganization conform, like the headings, titles, and areas, and that's in blue. And I didn't see any material changes to the intent, scope, or purpose of the Audit Charter as I went through it. And I think she kept some of our red underlines. She did. She kept the red items that we had talked about from the Audit Committee that we had added from the Audit Committee so this committee could be clear as to what the Audit Committee addressed that was not necessarily included in that first meeting that we had.

So, I think what we're looking at here, and I talked to Scott on this, I don't know, it was maybe a week or two ago as we were battling these back and forth, and my understanding, I'm new to the Audit Committee, obviously I'm not an auditor, so if there's specific questions about the substance of this, I asked Scott to be a panelist so he could address those questions or perhaps I could as well, but hopefully we'd be able to answer any questions this committee had. But I know that Scott, John, and I think it was Eric from the agency have been going through this and trying to fine tune this to make sure the intent of this Governance Committee and the Audit Committee was accurately reflected, and the law and the OARs were accurately reflected, in this charter. So, where we're at now is we ping-ponged this back and forth a couple of times. I'd be looking to finally fine tune this and approve this today, hopefully, and it would be based on Susan's latest draft document that's reorganized a little bit and renumbered, and that's the document starting on page seven. So, that's where we're at now. I'm hoping this is ready for approval, possibly with some fine tuning by this Governance Committee, but I think we're there. And that's the summary of the process and where we're at and what we should be doing today. Thanks.

Chair Susan Mandiberg: Thank you, Rob. So, I took nothing out of what you all sent me, and I was just having trouble following it because it seemed like some things were out of order that would have made more sense with things that they related to. And for me, it was just easier to put things in an outline form, and I think makes it easier to refer to different provisions. So, I took nothing out. Some of the change language was just to make it grammatical given the reorganization. But I do have some questions. And if Addie or Jennifer, do

you have any questions or comments? I'm happy to let you go first. Otherwise I'll just barge in.

Addie Smith: Please go.

Chair Susan Mandiberg: I should barge? Okay. So, I'm going to refer to the numbers in the reorganization that I did. As I said, I find that easier to refer to. So, in section B, Duties, subsection five and subsection A, biannually review and assess the adequacy of the Audit Committee Charter. I actually looked up the word "biannually" because I didn't know whether you meant twice a year or every two years. And when I looked it up in the dictionary, the dictionary helpfully said biannually sometimes means twice a year and sometimes means once every two years. [Laughter] So, I thought it would be a good idea to sort of put in there, be clearer about which one you meant. Scott, do you have an idea of which one you meant there?

Scott Martin: I agree. I did the same look-up myself, Chair Mandiberg, and the intent here is every two years.

Chair Susan Mandiberg: Every two years. So, if I change that to every two years, that would be a friendly amendment.

Scott Martin: Yes, it would.

Chair Susan Mandiberg: Fantastic.

Scott Martin: Also add that John Hutzler has looked at this last evening and did not have any issues with it when he reviewed your blue-lined version.

Chair Susan Mandiberg: Oh, I'm glad to hear that. Thank you very much for taking the time to do that. In C2, the Audit Committee shall include the following members, the last one, sub E, says the chief audit executive who serves as a non-voting member of the committee. Does that mean that all the other ones are voting members, including the agency's executive director and the agency's budget and finance manager or designee? So, everybody's a voting member except for you?

Scott Martin: Chair Mandiberg, that is correct.

Chair Susan Mandiberg: Okay. So, if I put something in to make it clear that these are all voting members instead of just leaving that by implication, would that be okay?

Scott Martin: That would be okay by me, thank you.

Chair Susan Mandiberg: Great. And in C2D, it says between four and six additional external members. That word "additional" was in there when this was organized differently. If I took it out, it wouldn't change the meaning. It was just because... The commission member, the executive director, and the budget and finance manager are not external members, right?

Scott Martin: That's correct.

Chair Susan Mandiberg: Okay, so if I took out "additional" there, that would still make sense.

Scott Martin: It would.

Chair Susan Mandiberg: All right. So, in F2C, a quorum is necessary to hold a meeting and conduct business. If a quorum is a majority of the members...

Rob Harris: I'm sorry...?

Chair Susan Mandiberg: ...does that mean a majority of the members who are...

Rob Harris: Where are we at here?

Chair Susan Mandiberg: We're at F1. Sorry, F1.

Rob Harris: Okay.

Chair Susan Mandiberg: And it says, F1C, a quorum is necessary to hold a meeting and conduct business. So, a quorum is a majority of the members have to be there. That's both internal and external, right? And so then D, Audit Committee action requires a quorum and the affirmative vote of at least one external member. As I read it, that means that depending on how many external members there are and who is actually present at the meeting to make up a quorum, the internal members could outvote the external members on a matter. Is that how that would work or am I not understanding it?

Rob Harris: I think that's right. I mean, I think that if you have the executive director, the finance, you have Scott...or not Scott, but you've got... What would the quorum be? If you had a very limited number of external members, what's the math on this, Susan?

Chair Susan Mandiberg: I don't know, but it seems to me that we've got the terms of members.

Rob Harris: You got a commission member, agency director.

- Chair Susan Mandiberg: You've got a commission member, that's internal. You've got an agency executive director, that's internal. You've got the budget and finance minister, that's internal. They're all voting members. And let's say you had four external members because that's the minimum number of external members you can have.
- Rob Harris: Mm-hmm.
- Chair Susan Mandiberg: So, that means you've got seven members. A quorum would be four. So, I guess it would always take at least one external member to pass something. So, that's probably okay, right?
- Rob Harris: Yeah, I mean, you could have a situation where you have three external members voting one way and one external members and three agency people voting the other. So, if you were talking about, could the external members be outvoted? The answer is yes.
- Chair Susan Mandiberg: The external members could be outvoted. Is that what you all want?
- Rob Harris: I think it has to be that way. I thought about this too, but then you're basically just making the external members the voting members, right? I mean, because if they could never be outvoted.
- Chair Susan Mandiberg: Yeah.
- Rob Harris: If you want to put in there they can never be outvoted, you might as well just make them the voting members.
- Chair Susan Mandiberg: Yeah, I guess I just want to make sure that this is what the Audit Committee wants.
- Rob Harris: I thought about this, and I realized that that could happen. I didn't do the exact math on that, but I thought, well, I think that otherwise you're just making the external members the only voting members. And so if the intent is to have these folks... And I think that generally speaking, the agency employees...those employed by... The non-external members I think are commonly voting members of Audit Committees. I could be wrong, but that was sort of my impression, Scott. Is that true?
- Scott Martin: Can you repeat that again? I'm sorry.
- Rob Harris: I mean, when you have an Audit Committee, it often... The voting members include both external and internal voting members of the Audit Committee, don't they?

Scott Martin: That's correct.

Rob Harris: Oh. So, I think it's normal to have it this way. Yeah, as lawyers, we come up with all sorts of scenarios that could be really bad, but I think that this is what was intended by the Audit Committee. But obviously, we could change that, or we could ask for a revision on that if you want to have that discussion.

Chair Susan Mandiberg: Well, I just thought I'd bring it up. The other question I have here is can the non-voting member, Scott, be counted as part of the quorum? Or is the quorum just made up of voting members? Because it doesn't say here.

Rob Harris: Let's see, that's under F1?

Chair Susan Mandiberg: F1, yeah.

Rob Harris: Yeah. Yeah, I mean, you could change F1C to say, "A quorum is composed of a majority of voting members." I think that would make sense.

Chair Susan Mandiberg: Does that work for you, Scott?

Scott Martin: That does, I agree with that, thank you.

Chair Susan Mandiberg: Okay, I'll add that. All right, let's see. If we go down to F2E, why isn't the chief audit executive who distributes the meeting agenda...why is the Audit Committee Chair not involved in that? I mean, does this mean that, Scott, that you put the agenda together without consulting with the chair? For example, in the commission, the agenda is put together by the executive director of the agency and the commission chair working together. And here it seems to have the agenda being put together by you alone. Is that how you all wanted it?

Scott Martin: Chair Mandiberg, this is Scott. No, it's a collaborative effort.

Chair Susan Mandiberg: Should that be in your charter?

Scott Martin: I think that makes sense to add it to where it states that. We're in collaboration with the Audit Committee Chair.

Chair Susan Mandiberg: Great. Yeah.

Scott Martin: That would make sense to me.

Chair Susan Mandiberg: Okay.

Scott Martin: Otherwise, it's an administrative task that I'm happy to perform.

Chair Susan Mandiberg: Yeah, no, I get that. Okay, I'll do that.

Rob Harris: To be clear, excuse me, to be clear on that, I think that was just it needs to be distributed in five days. It doesn't really address preparation or finalization of the agenda. But if you want to make that... Yeah, I think it's done. If you want to put that in there, amend it, that would be fine to make it clear that it's prepared...maybe approved by the chair and distributed five days prior, however you want to address it.

Chair Susan Mandiberg: All right. And then I think there are two points. Oh, the public records thing, yeah. What you said earlier explains that to me. Is there any way to be more specific about the kinds of things that would... I mean, would it be useful, to keep you all from getting into trouble, to be more specific about the kinds of things that are exempt from public records disclosure?

Rob Harris: Yeah, I mean, the language on that is, I mean, you could put some, and we debated this a couple of different ways. I think I'm the one that just said, "Well, put something general in there." And then Scott, with my approval, did this. Perhaps the committee may designate items, I don't know whether you call it items or materials, as confidential, and to the extent allowed by law, exempt from public records laws or something.

Chair Susan Mandiberg: Would you mind drafting something...

Rob Harris: Yeah, okay.

Chair Susan Mandiberg: ...better to put in there and we can...

Rob Harris: All right.

Chair Susan Mandiberg: My only other question was on section E about removal. Yeah, section E about removal. So, number three, any member of the Audit Committee may be removed with or without cause by a majority vote of the Audit Committee. So, I assume that refers to both internal and external members. And that's kind of interesting, [Laughter] given who appoints the internal members, but the thing that concerned me about that was, so Rob, I imagine you and Addie and maybe Jennifer too are the same way. I tend to think about the worst-case scenario and try to protect against it. So, the worst-case scenario that I came up with here was that for some awful reason, a bunch of people on the Audit Committee were in some kind of

collaboration to do something nefarious, and there was one Audit Committee member or two Audit Committee members who were pushing back against that. And the majority of nefarious [Laughter] Audit Committee members could remove the ones who were pushing back without any check by anybody else. And that concerned me.

And so certainly under two, if somebody's not attending, removal by the committee chair makes sense because that person can point to a record of the removed member not having attended meetings. But on five, you could just gang up against somebody. It could be a personality conflict, you know? And so I wondered if that would be better if that had to be approved by the commission.

Rob Harris: Well, where's the appointment of committee members? There it is, D.

Chair Susan Mandiberg: The appointment of committee members. Where are we [Inaudible 00:22:24]? Committee members are appointed.

Rob Harris: Yeah, so the appointments, members are subject to ratification by the commission.

Chair Susan Mandiberg: Yeah.

Rob Harris: So, you could put something like, "Removal by the Audit Committee is subject to ratification by commission."

Chair Susan Mandiberg: You know, that would make me so much more comfortable.

Rob Harris: I think that's fine.

Chair Susan Mandiberg: Scott, what do you think?

Scott Martin: I agree.

Chair Susan Mandiberg: Yeah? Okay, so adding "subject to ratification by the commission"?

Rob Harris: Yeah.

Chair Susan Mandiberg: Okay.

Rob Harris: Because we're using the same language, and it gives it the same power to veto. So, I think that's good.

Chair Susan Mandiberg: Okay.



- Scott Martin: If I may, I think the concerns were just the time that it takes to replace a chair, a position.
- Chair Susan Mandiberg: Which I totally get. But again, my husband accuses me sometimes of being paranoid and I tell him that I've spent many years of my life and lots of money getting to be this way. So, I like to protect against this kind of stuff.
- Rob Harris: Well, the one question with that, now thinking worst-case scenario, of course, is that if the Audit Committee votes to remove, does that mean the person is removed until the commission reinstates or are they on the Audit Committee until the commission ratifies?
- Chair Susan Mandiberg: Which is the better approach that allows the Audit Committee to function well?
- Rob Harris: Yeah, well, depends on the scenario, doesn't it?
- Chair Susan Mandiberg: Yeah. I don't think it matters. Do you want to go back to the other people on the committee and get an opinion about that before we do anything else?
- Rob Harris: How about this? They may be removed subject to ratification; however, the chair may reinstate the Audit Committee pending... I don't know. Yeah, maybe we wordsmith this a little bit. I could see a couple of options here, yeah.
- Chair Susan Mandiberg: Okay, so I will go ahead and make the other sort of just basic changes that we've talked about. If you wordsmith that and the last section on confidentiality.
- Rob Harris: Okay.
- Chair Susan Mandiberg: We may just have to bring this back one more time, but I'm hoping we can do it soon.
- Rob Harris: Okay.
- Chair Susan Mandiberg: All right, anybody else have anything on the Audit Committee Charter? Jennifer or Addie?
- Jennifer Parrish Taylor: No, I guess my only question would be, and it may just be a non-issue, is just to kind of run this through the lens of now that we're going to be in the executive branch, what might be missing in terms of autonomy to do things? And are we going to have to build in some approvals from the

Governor on some of these decisions? Again, I don't know if it would apply, but I just don't know what that kind of new structure is going to look like.

Chair Susan Mandiberg: I think that's a great comment. And I'm working with Jessie to consult with somebody from the Justice Department on the bylaws, and I can also consult with that person on this and then get back. And I'm hoping that that meeting will be set up in the next week or so. I will add that to the list, Jennifer. Thank you. That's a really smart suggestion. Anything else? All right.

Rob Harris: I just did want to say thanks, Susan, for doing this work. And while I was hoping to push this forward, I think that one more round of ping pong is worth it. And I would say I'm used to this because Susan was my legal writing instructor my first year at law school. And so I'm used to getting this really good feedback from her, so thanks.

Chair Susan Mandiberg: Me? I wasn't your legal writing instructor.

Rob Harris: Maybe you were my criminal instructor.

Chair Susan Mandiberg: That sounds more like it.

Rob Harris: Yeah.

Chair Susan Mandiberg: [Laughter] You'll excuse me if I don't remember you.

Rob Harris: Yeah, that's fine. There was like 800 of us, so.

Chair Susan Mandiberg: [Laughter] Okay, so the next thing on the agenda is we have occasionally, some of us, maybe all of us on the commission, have received emails or phone calls or letters from members of the public complaining about a variety of things. And we need to have more guidance to commission members about how to deal with it. Right now, the only guidance that we have is in the bylaws, which we're going to be amending, but I want to take this up as a separate issue.

And so right now, what the bylaws say is that if a commission member is approached by an aggrieved person, the member should direct the person to the correct course of action to be pursued and shall not discuss the complaint with the aggrieved person. And then all communications with the aggrieved person shall be in writing. A member who's approached by word of mouth shall so inform the aggrieved person and shall send a memorandum to the chair identifying the aggrieved persons and indicating the time of the conversation and the instructions conveyed by the member

to the aggrieved person. I am pretty sure that people have not been following these guidelines. [Laughter] And I don't think these guidelines are specific enough, and I'm interested in hearing what you all think.

Addie Smith: Go ahead, Rob, did you have something?

Rob Harris: I'm not sure what an "aggrieved" first, do we have a definition of aggrieved?

Addie Smith: Yeah.

Chair Susan Mandiberg: No definition of aggrieved person, right. We don't.

Rob Harris: Right. Because I always thought this was more of like an aggrieved person with someone who wants to make a formal complaint about like misconduct or something, not just somebody lobbying you, you know?

Chair Susan Mandiberg: Yeah.

Addie Smith: Definitely a definition would be helpful, and I want us to be really thoughtful in that definition because I think as members who serve the public, we want to be accessible to a certain extent, and I would assume able to have some of these conversations without sending a formal memo in response in order to gather information from various constituencies and individuals. And I like, Rob, what you're saying about sort of being really clear to differentiate between a formal complaint versus someone lobbying us or wanting to have conversations about the function of the agency that aren't rising to the level of sort of a seriousness that you're describing.

Chair Susan Mandiberg: I agree, but it's also the problem on the other side of one of us saying something that then gets quoted in Willamette Week or... [Laughter]

Addie Smith: Well, I think that's a media question, right? There should be a media policy, and I think that should be different. I also think we should have a policy with regard to talking to like legislators and other policymakers. I don't think we should be sort of out and about chit-chatting with our legislator without sort of checking in with Lisa and her team. So, I think there's room to consider the different scenarios, but if a public defender in Deschutes wants to reach out to me to talk about what they're seeing in their caseload, I'm really reticent to have to say no or send a memo or any...

[Crosstalk 00:30:21]

Chair Susan Mandiberg: So, there's those kinds of things, I agree, but I think that it's not only a question of talking to reporters, it's a question of me talking to member of

the public about public defense in general, right? Somebody contacts me upset about the public defense crisis and I say something and that person talks to a reporter and says, "Susan said blah, blah, blah." So, I mean, I think...

Addie Smith: But to be fair, that reporter would have to check in with you before quoting you. They'd have to check the source and there'd have to be multiple people. I mean, I don't disagree with you that we should be very cautious and we're at the edge of my communications knowledge. So, maybe part of what we do is bring in the new comms person to think about some of this, but I think there is a level of care that we want to provide but I'm really nervous about being inaccessible to the folks we serve. That's sort of the point of having a board is my understanding, which is a really unique structure for a state agency that is perhaps a different conversation for a different day, but to the extent that there is a board, I think that's just something I'm concerned with and I think our public generally, our provider communities, have felt a lack of transparency, have felt walled out, feel like...

[Crosstalk 00:31:47]

Chair Susan Mandiberg: Absolutely.

Addie Smith: ...without them. We're hearing that constantly. So, I think there's an extra emphasis on how we make this decision that isn't promoting this idea that sort of we don't want input, we're making decisions behind closed doors. If you reach out to us, you're just getting a memo that says we can't talk to you, etc.

Chair Susan Mandiberg: Absolutely. I couldn't agree with you more. So, we have to differentiate all of these things. Jennifer, do you have any...

Jennifer Parrish Taylor: Yeah. I mean, the process, I'm just thinking aside from kind of the public engagement but as a commissioner that is not a lawyer, this feels very process heavy and intimidating potentially to someone that may not be used to writing memos. And so I guess I'm also just wondering about the process. Like if you're trying to find a balance in the commission of folks who have experience being a public defender or a lawyer, but also folks with lived experience who have been touched by the system, this is going to freak them out, I think. And I think folks are, yeah, I'm just wondering how we can just make the process a little bit more accessible.

Chair Susan Mandiberg: So, I agree with what everybody's saying. I think there are all of these concerns that we need to somehow capture in some guidelines. And I don't

think they need to be in the bylaws. I think they can just be... I don't think it has to be that formal, right?

Jennifer Parrish Taylor: Yeah. I think it could be training.

Chair Susan Mandiberg: I think there need to be guidelines or trainings. And I would love it – I'm taking notes by the way – I would love it if one of you, Jennifer or Addie or Rob, could take on the task of trying to draft something that captures all of this. Maybe if two of you could do it and then we could compare what you come up with. Because we're coming at this from really different angles and experience and needs. If a couple of you could take on just writing some guidelines and let's compare what we come up with.

Addie Smith: Can I make an alternative suggestion that you're welcome to shoot down? We do have a new comms person at OPD.

Jennifer Parrish Taylor: I was just going to ask, yeah.

Addie Smith: And so I would suggest perhaps we consider having that person do a first draft. This is sort of their area of expertise, and they will understand particularly the media risks, the legislative risks as they're a part of that team and that department and may be able to take the rowing [Distortion 00:34:51] and then we can take a look at what they come up with.

Chair Susan Mandiberg: Well, I think that's fine unless we want to have this done sooner rather than later. And the comms person, based on my conversations with Jessie, the comms person has a pretty full plate of dealing with legislative stuff and providers and judges and so forth. And I think it would be absolutely essential to run things by a comms person and get that person's input. I think it might be more efficient and get that input sooner if we gave the comms person something to react to.

Jennifer Parrish Taylor: I think that's fair, but I guess my question also is like aren't there current processes or also like what would be the process that the Governor's office has as well when it comes to dealing with the press?

Chair Susan Mandiberg: This goes beyond dealing with the press, of course, but yes, you're right. We can... Yeah.

Jennifer Parrish Taylor: Yeah. And I'm happy to work with you, Addie, on some draft language, but I also want a starting point that is informed by a professional.

Addie Smith: I'm happy to try and be helpful. I would say it sounds like the comms person and I are in similar positions in terms of current availability of time. So,

Jennifer, you and I can talk for sure, but I'm also a little over tapped at this exact moment.

Chair Susan Mandiberg: Well, I think we're all pretty busy and I think none of us want anything more on our plates. But on the other hand, this is a job that needs to be done. So, if you guys have a chance to put your heads together and come up with something, I will talk to Jessie about what kind of time we can wrench from the comms person and what kind of timeline we're talking about in terms of getting that time.

Jennifer Parrish Taylor: And for a clarification, do we have something currently? Where can I find the language in terms of like you have to submit a memo and...

[Crosstalk 00:37:20]

Jennifer Parrish Taylor: Okay, cool.

Chair Susan Mandiberg: It's in the bylaws.

Jennifer Parrish Taylor: I'm just looking for it specifically, okay.

Chair Susan Mandiberg: It's in the current bylaws.

Jennifer Parrish Taylor: Okay.

Chair Susan Mandiberg: Under grievance procedure.

Jennifer Parrish Taylor: Gotcha. Okay. I can take a run at it.

Chair Susan Mandiberg: All right. I will find out what, if anything, we can expect to get from the comms person, and we'll come at this from both directions. Anything else, Rob? Do you have anything to add to this?

Addie Smith: Rob, did you want to volunteer to write it? Is that what I'm hearing?

Chair Susan Mandiberg: You're muted.

Rob Harris: No, Addie. That is exactly not what I said.

[Laughter]

Addie Smith: I couldn't help myself, sorry.

Rob Harris: Because honestly, there's probably other commissions that might have a head start on this, like Oregon Liquor and Cannabis Commission, or I'm not sure what other commissions there are that are similar to ours, but there's probably a few.

Chair Susan Mandiberg: Would somebody like to...

Rob Harris: I would want to...

[Crosstalk 00:38:13]

Rob Harris: I mean, someone's got to do some homework, and it seems to me the comms person or the Governor's office, like Jennifer said, is an appropriate place to start.

Chair Susan Mandiberg: Okay.

Rob Harris: For me just to start putting pen to paper and coming up with something would probably be relatively worthless.

Addie Smith: [Laughter] I'm only laughing because I feel the same way not because I think your words would be worthless.

Rob Harris: [Laughter] You agree I'm relatively worthless.

Chair Susan Mandiberg: So, here's a suggestion. Instead of putting pen to paper, who would like to either contact other commissions or go onto their websites and find out their communications policies?

Jennifer Parrish Taylor: I can do that.

Chair Susan Mandiberg: Great. Thank you, Jennifer. That would be extraordinarily helpful. And if you wanted to send what you have found or links or anything like that to Mara, she can distribute them to the rest of us.

Jennifer Parrish Taylor: Sounds good.

Chair Susan Mandiberg: Thank you. Okay, and I will still find out about using the comms person. So, we have 20 minutes left and the next thing on the agenda is the bylaws. These bylaws were put together starting last January when I was brand new on this commission. I had no idea how any of this worked. And I think that it's been an education for me, for sure, and maybe for other people to have been on this now for almost 10 months. And there are certainly things in these bylaws that need to be tweaked and changed. So, I've asked Jennifer

Nash and Jessie to give me a list of parts of the bylaws that they think need changing or eliminating or supplementing.

I have a pretty long list that I went through of things that I think need to be changed. Some of them are just nits, but some of them are not. I don't think we have time in the next 15 minutes to go through all of them, although I'm happy to start in on that if people want. I wondered if any of you have had a chance to go through the bylaws and see what you think needs to be added or eliminated or tweaked. And again, I realize everybody is really, really busy. And so my question is whether you want to leave that to me and Jessie and Jennifer, or whether you want to take some time to look through the bylaws and see what you think might need attending to.

Rob Harris: First, I'm fine with you guys identifying issues that this committee can then work on, and maybe that's the most efficient way to do it. Sounds like you guys have already put some time into that. I'm not prepared really to go through that page by page here. Second, is there something in here where we say that the Governance Subcommittee reviews the bylaws on some sort of a basis? And do we have a schedule for that, so we don't just do ad hoc reviews? I thought we put that in there.

Chair Susan Mandiberg: I think it's in there that we review it from time to time, but I'd have to look that up again.

Rob Harris: Because I know we had a discussion about, oh, we don't want to be redoing these every six months. So, I thought we had a schedule on there. But I could be wrong because I haven't reviewed these bylaws [Laughter] recently.

[Crosstalk 00:42:28]

Jennifer Parrish Taylor: ...talked about it, and I read through it, and I don't think I saw it, but I could have missed it. So, I'll go back.

Chair Susan Mandiberg: I could have missed it.

[Crosstalk 00:42:36]

Chair Susan Mandiberg: Hold on. I've got them here. Let me see if I can find it.

Addie Smith: I imagine there's a best practice out there.

[Crosstalk 00:42:47]



Chair Susan Mandiberg: I think for one thing, we need to at least go through them to see if anything has to be altered as we move into the executive branch.

Rob Harris: Yeah, and under article seven, the last article to the bylaws, it just says they'll be amended by a two-thirds vote of voting members at any meeting provided the topic is posted on the [Inaudible 00:43:07]. So, it doesn't have anything here about the bylaws, but how about in our bylaws?

Chair Susan Mandiberg: Oh, those are the commission bylaws.

Rob Harris: Yeah, so our bylaws might say something, so.

Chair Susan Mandiberg: What do you mean our bylaws?

Rob Harris: Didn't the Governance Subcommittee have a charter or bylaws or something?

Chair Susan Mandiberg: Boy, I don't think so.

Rob Harris: Okay, maybe there's something in here about the Governance Committee.

[Crosstalk 00:43:37]

Chair Susan Mandiberg: There's something about the Governance Committee, but we don't have our own bylaws.

Rob Harris: All right. Generally meetings...

Chair Susan Mandiberg: Subcommittee, it says that...

Rob Harris: Subcommittees.

Chair Susan Mandiberg: You have a subcommittee, a Governance Subcommittee, it says that we'll meet, it goes into our agendas, our materials, our conduct of our subcommittee meetings. That's all.

Rob Harris: Yeah. All right. I mean, it does make sense to review these and make any amendments we need to make probably before going into the Governor's office. I get that. And I'm fine with it. I just thought maybe there was a schedule that we had had here.

Chair Susan Mandiberg: Well, one of the things we can do is amend the bylaws to have a schedule.

Rob Harris: [Laughter]

Addie Smith: That's what I was trying to say, and I imagine there are best practices around that. So, I'm not sure how much our former staff person who was working with us sort of devised these based on board governance best practices or not, but that's something we could look into because there are lots of sort of guidelines out there about frequency of review, etc., when it comes to things like this rather than pulling it out of a hat. Although...

[Crosstalk 00:44:55]

Chair Susan Mandiberg: ...pulled it out of a hat. We started with the bylaws from the previous commission and there was some input about best practices. As I said, I am going to meet with someone from the Justice Department who now works with us. And I'm sure that person, I don't yet know exactly who it'll be, will have a lot to say. Anything else anyone wants? I'm happy to keep working on this.

Addie Smith: Can I ask just a process question, if that's okay?

Chair Susan Mandiberg: Yeah.

Addie Smith: So, it sounds like you're reviewing it, you're reviewing it with our DOJ counsel. The Governor's office is reviewing it and their counsel, I assume, are reviewing it from their perspective before we move over to make sure...

Chair Susan Mandiberg: I have had no contact with the Governor's office. Are you suggesting that we need to have someone from the Governor's office look at this also?

Addie Smith: I'm not sure the best process. DOJ has different retention agreements and agreements with the governors. I don't know who's going to be considered their client or the vantage they're going to review it from without getting too esoteric. I just want to make sure that we don't do a whole really thoughtful review process, then get in the Governor's office and have advice and counsel from the Governor's office that says, "Now that you're in the executive branch, you've missed a few things."

Chair Susan Mandiberg: Good, good, and I will look into that. Jennifer, do you have any input on this?

Jennifer Parrish Taylor: That was the same that I was going to mention, but I will reread this with finer detail just to make sure I'm missing something. But I'm also, like, I don't know what I don't know. So, I don't know sometimes necessarily what I'm missing because I read this, and it was like this seems pretty

straightforward. But then to hear like, oh, there's additional feedback. I'm like, oh, okay. What would that be?

Chair Susan Mandiberg: Well, needless to say, working on this is pretty time-consuming. And that's part of the reason I'm asking you all to share some of the other tasks.

Jennifer Parrish Taylor: Absolutely.

Chair Susan Mandiberg: On the committee, right. I will keep working on this and I will find a way consistent with public meeting laws to get information back to you in between our meetings. But that brings me to the last thing on the agenda. It would be extremely useful if we could have fixed meeting dates for this subcommittee because it would eliminate the hours of time that Mara has to spend trying to coordinate with all of us to find dates that work, and which then puts off the amount of time in between our meetings. So, I'd like to know two things. First is how often do you think this subcommittee should meet? Anybody?

Rob Harris: I think...

Jennifer Parrish Taylor: I mean, it feels like... Oh, go ahead.

Rob Harris: I think quarterly is enough, honestly. And if you need special meetings, you can put them between them.

Jennifer Parrish Taylor: I was going to say because I think there's like this initial time where when we're figuring out processes is going to require probably more frequent meeting. But once we're past that and have our documents finalized, I don't think we need to meet as often. So, I think quarterly would make sense.

Addie Smith: Susan, I'm wondering what you're thinking because it sounds like you're pulling the rowing oar on a lot of this and that it's a lot of time. So, what would be helpful from us or others in your perspective?

Chair Susan Mandiberg: Well, I think it would be helpful to have meetings more than quarterly. I think if we had quarterly meetings, they would be very long meetings. I was thinking monthly, but I'm willing to say every other month.

Rob Harris: What do you see coming up as future tasks for us to do? Like what if we did monthly meetings for the first three months and then have planned to switch to quarterly, but not necessarily scheduled monthlies?

Chair Susan Mandiberg: That might work. I have a list of tasks, some of which are on the back burner. The bylaws was actually put on the front burner by Jennifer and

Jesse. So, that's why it's here now. Audit committee obviously on the front burner. I will put together the list of other tasks that I'm aware of and get Mara to send that out to you just so you know what's coming up.

Addie Smith: I have another thought or question that corresponds with this. I feel like I'm the stick in the mud today. So, I apologize, Susan. I don't want to be, I am a solution-oriented individual. I do notice though that this subcommittee, three of the four members have other duties within the commission, including chairing two other of the subcommittees. So, there's a lot of time spent by those of us on this committee, and I feel like what's unfortunately happening is you're feeling the brunt of that as the chair of this subcommittee. I can only speak for myself; I can't speak for Rob; but as the legislative chair, I know that always gets my first attention and this gets my second attention, which is not fair to this subcommittee or to you. And so I wonder if one of the other things we want to talk about is the composition of this subcommittee and whether it might not be helpful to tap some individuals who aren't otherwise committed so you can have more dedicated, attentive members.

Chair Susan Mandiberg: Addie.

Addie Smith: Not that this isn't important.

Chair Susan Mandiberg: I have asked Jennifer.

Addie Smith: [Laughter] Uh-oh.

Chair Susan Mandiberg: To find us other committee members for the last three months.

Addie Smith: Well, at least I'm not missing the mark here.

Chair Susan Mandiberg: You are not missing the mark.

Addie Smith: You're not alone. You should feel validated. We can...

[Crosstalk 00:51:38]

Chair Susan Mandiberg: I feel fully validated, but unfortunately, Jennifer's list is this long and there are other things like talking to legislators, meeting with LFO, meeting with the Governor's office, practicing law, [Laughter] that have taken priority. But I will once again ask.

Addie Smith: Well, I wonder if we might just have... I've used this on boards I've chaired before, which isn't to say it's super easy, but at the next meeting, we have

an Excel sheet that has each of the members and each of their commitments. And there's a little gentle public shaming that happens where we pull that up. And those who have zero boxes marked with an X may be gently coerced into stepping up and stepping into something. And so it doesn't have to be something that happens on the sidelines but can be done during an already scheduled time. Maybe a terrible idea, maybe too much, or maybe not Chair Nash's style. But I just... I want you to not feel like you're carrying the weight of this, and it sounds like leaning heavier on staff isn't a good solution either, which can often be a solution in volunteer boards.

Chair Susan Mandiberg: Yeah. No, they're pretty... The staff is pretty overextended. I hear that pretty constantly. All right. I'll suggest that to Jennifer.

Addie Smith: Also, if it's helpful, I'm happy to send that email. I don't know how it will land coming from me, but I can at least take that off of your plate.

Chair Susan Mandiberg: No, no, I can deal with that. That's not a problem. And I don't blame Jennifer. I mean...

Addie Smith: Of course.

Chair Susan Mandiberg: You know, she's... All right.

Rob Harris: You know, this is sort of out of left field, I get it, but I've been thinking about this commission as well. And they should pay a wage for being on this commission if they expect this commission to overhaul this agency. They're asking us to do a lot of work and devote a lot of our professional expertise and time, and I'm concerned that we're going to lose good people who simply can't pay their bills because they're spending so much time. And I get the public shaming, but there's people that have a whole lot of stuff going on personally that are trying to make a living. And I get it though, Addie, but it's sort of like, I don't know, and I'll be happy to waive my commission fee, by the way.

Chair Susan Mandiberg: There is a per diem.

Rob Harris: Yeah, but I don't even put it in for that. I mean, hopefully other people do, but it's a complicated, bullshit sort of process that makes me not want to do it.

Chair Susan Mandiberg: Well, and I also heard that HR hasn't figured out the right way to pay it yet.

Rob Harris: Yeah, I mean, when I did put it in, I probably did it wrong, but I didn't get a check. And that's fine, but I just think that if... And I've heard people say, "We expect the commission to fix this." And I've said to them, "This is a volunteer commission that doesn't get paid, and that's a really unrealistic expectation that we are going to fix." It's the agency that needs to fix the problem, not us, in my opinion. Well, they need to do 90% of it, but I'm just saying that I think they should probably pay these commissioners if they think that they should be doing this much work.

Chair Susan Mandiberg: Well, part of the problem is that we're called the same thing as the agency.

Rob Harris: Yeah.

Chair Susan Mandiberg: Back when there were two different names, it was easier for the public and for all of us [Laughter] to distinguish the employees from the volunteers. But as you've said, this is another issue beyond the scope of this committee.

Rob Harris: I don't know, Governance Subcommittee could say that we think that this would function much better if these were paid positions. That was part of our sugges... We can make that recommendation.

Chair Susan Mandiberg: Well, we can. We can make that suggestion. Should we add it to the legislative agenda?

Rob Harris: Yes. [Laughter]

Addie Smith: Yes. I'll take it and run it over to my committee.

Chair Susan Mandiberg: I mean...

Chair Susan Mandiberg: [Laughter] Okay, Addie, this is for your committee now.

Addie Smith: [Laughter] We'll take this one, too easy. I'm just teasing. But I do appreciate, I mean, Rob, I really appreciate what you're saying. It certainly crossed my mind as someone who's a non-retired member. Not that there should be a difference in terms of times and expertise, but the amount of hours that I am putting in. And your point about sort of like using our professional expertise is really well taken also because I think a lot of us are here because of what we bring to the table. And I certainly didn't mean to sort of insinuate that folks were choosing against this or that.

Rob Harris: I know.

- Addie Smith: I know you know that, but just to say that because I also feel like sometimes stuck between that decision of one more meeting and getting something done I need to do or meeting a personal need, etc. So, I really appreciate that.
- Chair Susan Mandiberg: So, let me just say that as a retired person, I don't mind taking on more than people who have full-time jobs, but I also have other things in my life, and I cannot let this swallow my life.
- Addie Smith: Of course. Absolutely.
- Rob Harris: Yeah.
- Chair Susan Mandiberg: And the other part of it is that I think as this kind of media meeting has shown, we just do better when we have the input from a wider variety of people. If it's only me working on the bylaws, they're not going to be done well because I...
- Rob Harris: Yeah. If people are paid, they show up. And your volunteers...
- Chair Susan Mandiberg: We need the input of people with widely different experiences because I know what I know, but I don't know what you all know. And I think that your suggestions in this committee meeting have shown how true that is. They're just things that aren't on my radar screen. So, it's not just a question of who has the time, it's a question of needing everybody's expertise.
- Addie Smith: Absolutely.
- Chair Susan Mandiberg: Yeah.
- Rob Harris: Yep. So, put that on your legislative committee there, Addie.
- Addie Smith: Yeah, sure. Got that.
- Rob Harris: Get that done for us.
- Chair Susan Mandiberg: Thank you all for doing this. In terms of dates, I'll get out a task list. If you all could let Mara know days of the week and times of the day that it's easy for you to schedule an hour meeting on a regular basis, that would be extremely helpful. As we've said, we've got a lot done in an hour here. So, an hour, hour and a half should be all that we need. If you could just let Mara know times that we might be able to aim for, that would be great.

Jennifer Parrish Taylor: Yeah, I would just chime in and say that with the legislative session picking up, they don't meet on Fridays. And so I would just say, really for me, that's the only day I'm going to have available because I'm going to be working session, so.

Chair Susan Mandiberg: Friday works for me.

Addie Smith: I hold Friday afternoons as catch-up time for most of my work. So, absent travel schedules that I can't predict, it tends to be the best time for me as well.

Chair Susan Mandiberg: Yeah. Good to know.

Rob Harris: Friday is my day off.

Chair Susan Mandiberg: All right. Thank you all for your time today. Appreciate it.

Rob Harris: Thank you.

Chair Susan Mandiberg: See you soon.