

MEETING MINUTES

Oregon Public Records Advisory Council

October 15, 2021

Called to order at 2 p.m.

Members present: Todd Albert, Michael Kron, Adam Crawford, Emily Harris, Steve Suo, Les Zaitz, Scott Wilkens, Mark Landauer, Tony Hernandez, Rep. Karin Power.

Absent: Sen. Kim Thatcher, Rob Bovett, Molly Woon, Shirin Khosravi

I. Approval of agenda: Motion by Les, and Second by Todd. Motion Carries by voice. Agenda approved.

II. Adoption of minutes for meetings on Sept. 10 and Sept. 16: Motion by Les. Second by Steve. Motion carries by voice.

III. Open the meeting to public comments. Five minutes total and two minutes per individual.

IV. Committees

Legislative Committee

- The committee discusses and prioritizes issues and changes to the Oregon Public Records Law.
- Members: Todd Albert as Chair, Emily Harris as Vice Chair, Steve Suo, Sen. Kim Thatcher, Shirin Khosravi, Mark Landauer, Rep. Karin Power, Rob Bovett, Michael Kron
 - Rep. Power offered her office to help with scheduling.
 - Emily volunteers as chair and Todd as vice chair
- Issues identified by the full PRAC during meetings.

Non-legislative Committee

- The committee discusses ideas, projects, research and other matters not tied to the Oregon Legislature and making laws. See online list that contains several dozen ideas and suggestions for non-legislative projects, fact-finding and more.
- Members are Todd Albert as Chair, Steve Suo as Vice Chair, Les Zaitz, Molly Woon, Tony Hernandez, Adam Crawford
- Mark: Would be wise to appoint a chair and vice chair. Volunteers rather than railroading.
- Mark says that one of the first items will be the discussion of fees, an item that was important to Power.

By-laws Committee

- The committee works on bylaws on which the PRAC will operate from.
- Goal is to conclude work by end of current term.
- Scott Winkel as Chair, Tony Hernandez as Vice-Chair, Sen. Kim Thatcher and Molly Woon

Scott asks about the number of members on the Legislative Committee having a quorum for the larger PRAC.

- Scott: I don't know that the legislators would count toward the quorum, but that would be an interesting clarification. The people who are working these bills, and talking about the bills and doing so from the capacity of representing their clients.
- A quorum of the subcommittee can't meet without a public notice. They can't meet if it's part of the agenda and work product. If they're on the course of doing their job, Michael talks to Mark, Mark then talks to Shirin, Shirin talks to Mark. Concerned about serial meetings and public meetings violations that his members are trained to avoid.
- Mark: This is the Public Records Advisory Council that seeks transparency. Whether or not the subcommittee meet the technical of public meetings, he cannot answer but the meetings ought to be noticed to the public and have the opportunity for the public to listen in.
- Michael thinks these subcommittee will need to follow the Public Meetings Law. With clear expectation if there's going to be anyone lobbying on behalf of the PRAC or of the subcommittee but the latter shouldn't be happening, there should be one or two people so that there wouldn't be a quorum issue.
- Todd: Agrees with Michael. Should follow public meetings requirements.
- Steve: Forming workgroup to discuss details of a bill. Once the session starts and there's an agreed upon PRAC bill, he asked what are member's obligations and how will they communicate.
- Scott: Analogy of contact tracing. Let's say Todd tells Rob, there's an amendment on bill. Where are we? Rob says to Mark, who then talks to another. That chain will eventually become a quorum, which may not be intentional, but could still be seen as an open meeting quorum.
- Michael: Court of appeals and lower courts also looked at the intention of the discussion.
- Mark: Seems like everyone agrees. Takeaway: Subcommittee needs to be properly noticed.
- Tony asked about the needs for taking minutes during subcommittee meetings?
- Mark said each subcommittee will be charged to determining how to keep minutes.
- Todd: There are a variety of ways to post minutes, including posting a video.

Next steps:

- Next meeting is at 2 p.m. Dec. 9, 2021.
- Les asks that we do everything possible to to invite the public participation and that they can submit written comments to the PRAC before a meeting as well. Todd says he will include in public notices.
- Michael volunteered to provide regular updates of work from the Sunshine Committee during quarterly PRAC meetings.
- Tony shared [web link](#) to the current version of a cool public records tool that he used in Arkansas. It provides useful information to members of the public and suggestions when faced with challenges.
[<https://arkansasag.gov/arkansass-lawyer/opinions-department/arkansas-freedom-of-information-act/>]
- Steve also noted opportunity to celebrate the PRAC's recent legislative success. "I'm really glad that that the bill passed and I'm grateful for all the people who made it happen. And I'm grateful to you, Todd, for bearing with this process and making sure that it got done so."

Full Transcript

Mark Landauer

All right, with that, I'll call the Oregon Public Records Advisory Council to order. Let's check to see what members of the council are in attendance and determine whether we have a quorum. Please God, would you mind just quickly doing a quick? I don't know if we need a Roll-call vote or just a call as to who is present on the council, but it would be helpful if we can determine whether or not we have a quorum. You're on mute.

Todd Albert

Sorry. Would you like me to just go down our list?

Mark Landauer

Why not?

Todd Albert

OK. Todd Albert present. Molly Woon. She mentioned should probably be about a half hour later, so we don't have her now. Michael Kron.

Michael Kron

President, but on mute.

00:01:09:5 - 00:01:18:6

Todd

Thank you, Adam Crawford. [Adam Crawford] Present. [Todd] Welcome back, Adam. Emily Harris.

00:01:24:1 - 00:01:25:2

Mark Landauer

We see you, Emily.

Emily Harris

Present, Yes, thank you.

Todd

Thank you, Steve Suo. [Steve] Present. [Todd] Les Zaitz. [Les] Yo. [Todd] Scott Winkles. [Scott] Present. [Todd] Rob Bovett. Mark Lindauer. [Mark] Present. [Todd] Tony Hernandez. [Tony] Present. [Todd] Rep Power. OK, we are at quorum Mark with nine members present.

Mark

Thank you, Todd. first item on our agenda is to approve the present agenda, and I'd be more than happy to take any suggestions from the council members to add any additional agenda items. So let's look like. Let's move to approve the existing agenda, I suppose, is the proper format I would gather. So I'd certainly entertain the motion.

[Les Zaitz]

So moved

Mark

So I believe that was Tony moved and a second, please.

Todd

Second.

Tony Hernandez

I think it was Les

Mark

Oh, I'm sorry. And Tony, I believe you are serving in our reporting. So thank you for that clarification. It was motion made by last second by Todd. All those in favor please signify by saying aye.

Group

Aye

Mark

Any opposed? Hearing no opposition. Are there any motions for additional items to be added to the agenda by members of the council?

Hearing none, we will go to item number three on our agenda today, and it is my sincere hope that we will end early today and not use the entire two hours. That is the chair's hope. But clearly, I don't control everybody here. So first, I has everybody had the opportunity to review the minutes. I believe we have two sets of minutes. Todd, is that correct?

Todd Albert

Yes, the minutes from our second meeting were received this morning, so if everyone's had an opportunity to review them or not.

Mark Landauer
Go ahead, Tony.

Tony
I just wanted to apologize for getting in at the very last minute and that will not be the case.

Mark Landauer
No worries. I would entertain a motion to accept the minutes from the previous two meetings. However, I'm also more than happy to split those, and if we need to take those up from our last meeting at our next meeting, I'm happy to entertain that, but I'm more than happy to entertain a motion for the adoption of both sets of minutes.

Les
So moved

00:04:40:6 - 00:04:48:2
Mark Landauer
Thank you, Les. Is there a second, please?

Steve
Second

Mark Landauer
Thank you, Steve.

All in favor, please approve by saying aye.

Group
Aye

Mark Landauer
Any any opposition? OK. The many meeting minutes have been approved, and at this time, I would like to open the meeting to public comment. We will attempt to limit our time for public comment to five minutes total and two minutes per individual. Scott, I see that your hand is raised. Please go ahead.

Scott

Sorry, I guess the point of, I don't know, order, but I'm seeing this person trying to get in. Are we having a hard time getting the public, allowing public members into the meeting?

Todd Albert

Misek has been the only one that I haven't been able to admit. For some reason, I keep pressing, admit and it keep saying it failed. I just texted her and asked her if she could use it to call a number.

So hopefully that'll work for her.

Scott

Oh, OK. I just wanted to make sure we didn't have a problem with public access.

Todd

No, so far, unfortunately, she seems to be the only one.

Mark

Thank you. At this time. As I began, we do allow for public comment at our regularly scheduled meeting. We traditionally make up five minutes available for the public, although we are very flexible on that. And each individual is allowed up to two minutes at the discretion of the chair.

It's there, but anybody in the public that would like to address the council at this time?

Todd Albert

I'm looking for raised hands, Mark. We do not have any at this time if there is anyone who would like to speak but can't raise their hand. Please speak up now.

Mark Landauer

Okay. Seeing no public comment, we will close the public comment period at this time. And now we will begin. Item number five. Finalizing the membership in the previously approved subcommittees. Those subcommittees, I believe, included Bylaws. Um, Steve and then Todd, please forgive me. What's the third one?

Todd Albert

It's a legislative, non-legislative and bylaws. I made a handy dandy word document. I could share my screen and show you it includes who's in white and who hasn't yet volunteered for our subcommittee. And Steve communicated with me a little while ago a pretty good suggestion about sharing the ideas between the subcommittees.

That's that's probably worth the discussion, although I think it might serve best to send that document to whomever we select as chairs for either committee. But perhaps Mark, you may want to discuss that. So if you give me a moment, I will endeavor to share my screen.

Mark Landauer

And I'd and I'd certainly love to hear Steve thought on on his little chart that he produced with all those fancy colors.

Steve

Data visualization.

Mark Landauer

Well, there we go. Scott, you still have your hat. There we go. Thank you, sir. All right. Now I think everybody can see the document that we have before it, the non-legislative committee. And just as a reminder, if you're not on the call your number ending in four, if you could please mute yourself, we would appreciate it.

Thank you. Um, on the legislative side, we've got and I believe that when we were talking about legislative, perhaps more clarity on that needs to be provided, and I'm certainly open to being corrected at any time. But this one, I think we were sort of more centered on the issue of fees if my memory serves me correctly.

And then, of course, the bylaws that will govern the operation of the Public Records Advisory Council as well, we have and then not yet assigned to a subcommittee. We have a few folks there as well. I want to make a quick note.

We have learned that two existing members, at least Todd, will not be seeking a reappointment at the end of this year. Both Les and Scott, as I understand it, are not pursuing a second term on the council. And I want to make a note of that simply because it's very likely that these committee assignments or I should say subcommittee assignments, will go beyond the terms of their position on the on the council. And I guess one question that we need to address and Todd, I suppose I'd look to you, are Les and and Scott's terms, if if they do expire prior to the conclusion of the subcommittees, what are we going to do in that event? I look to your what sage legal counsel and to the rest of the members of the council on any direction on this, because this was something that sort of popped into my head a couple of days ago, and before I go any further, I want to recognize Representative Power, who has just joined us. Thank you for joining us today, Representative.

Karin Power

Sorry, my internet without it. But we got it back.

Mark

Well, we're glad. We're glad you could join us. So hard, just any any reactions to that. I, I, I have no idea how we go about that. I know that Scott had sort of volunteered on chairing the bylaw committee, but since then we've learned that he will not be seeking a second term on the council. I don't I don't know if they. Scott, can you finish it by December 31st?

Scott

Yeah, I think for purposes of establishing the bylaws, if you need us, if you need a bylaws committee, so if an issue comes up, you need to revisit. And I would think you would want to reappoint, but I think, yeah. I don't I don't know where. I haven't talked to the rest of the committee yet, but I wasn't planning on sending a treatise. So it's I think the models I've been looking at are pretty are fairly clear and concise.

Mark

Well, and I suspect that there will be plenty of of interest in other members who have not been assigned to perhaps fill out some of these subcommittees as well. Todd, any suggestions where where do we want to go?

We want at this point, I assume, we want to fill out these subcommittees and give them their marching orders. Is that your understanding?

Todd

Yeah, Mark, I think we should let the committees get to work, and as some of our members depart, we could certainly either just slot in the new members sort of like, "Welcome new person, this is the committee you're on. We hope you're willing to do it." Or, you know, after the new year, after the committee will make their initial reports in December. And if the track wants to sort of take up the heavy lift of reconstituting subcommittees after get new members, we could go that route. But I mean, I certainly don't on committees where you show up and they're like, Hey, glad you're here, this is your subcommittee, get to work. And then, you know, later you have a chance to revisit other type work. I'm sure Rep. Power knows what I'm talking about in terms of committee assignments and stuff when you're a new person. So I think we're probably okay to just slot people in as they come and then down the road sort of take a new look at it.

Mark

Right. So, so the purpose of item number five today is to finalize a membership of these previously approved subcommittees. I think it would also be wise for us to appoint a chair, maybe a vice chair for each of these subcommittees if and I'm hopeful that there will be volunteers rather than us railroading certain individuals into these slots like I was into this.

So we'll start perhaps with our non-legislative subcommittee. I think we have a volunteer for the nine legislative subcommittee include Todd, Steve, Less, Molly and Tony, and we would certainly welcome any other members to join that. Todd, perhaps it might be wise to just do a quick summary of the quote unquote non-legislative subcommittees potential scope of of work so that the other members who were perhaps not able to join us at our last meeting can at least have an initial understanding, although I would hope that they read the meeting minutes as well.

So for the general public purpose and perhaps a reminder of the committee members, why don't you just give us a brief summary and sorry for putting you on the spot, what the non-legislative subcommittee will be responsible for?

Todd

Sure, I'm going to pull up the list we came up with from our website to just bear with me for a moment. I think you should all be seeing the list now. This is our non-legislative objectives, and overall, we came up with: a ten year strategic plan how to provide guidance, feedback on public bodies, public records policies, state local agencies survey regarding public records practices, a transparency impact statement. Just look in how far we have to go. Transparency by design, best practices and whether agencies are pursuing them. PRAC advocate information on Oregon transparency website transparency by design, proactive disclosure, regular contact interfacing with Transparency Commission and the Sunshine Committee. Advocate Employee Public Education. Bylaws. Top five exemptions leading to disputes. Public education and accessibility. Allocating adequate resources to public bodies for processing public records requests. Model public records policies for local agencies. Education advice and how to avoid getting into disputes over exemptions. Standard typical pitfalls. Report from the advocate on the nature of requests and themes. District Attorney orders on public records requests. Public Records PRAC survey. Fact finding commission regarding COVID 19 or rather, I suppose, the agency's response to public records requests during the pandemic. Fact finding commission on fees, bylaws and data dashboards.

And since I'm talking, I will also volunteer to chair this subcommittee.

Mark

Thank you, Todd. For those of you who perhaps were not with us last time, I would very much hope that that you'll be willing to serve on at least one of these subcommittees. And the other thing that I just want to mention was that power was not on the meeting last time when we compiled this list. And I want to ensure that she has the opportunity to provide some input if she has other issues that she would like added to the current list. So I see your hand up, Rep. Power. Please go ahead.

Karin

Thanks, Mark. Those are some pretty comprehensive to me. My question to the group was I wanted to attend this meeting before emailing Todd back and letting him know what to add me to. As a legislator, should I be on the legislative committee by default or can I do something different?

Mark Landauer

My response to that is you're a legislator and you can do whatever you want. So we would I personally would appreciate being on the Legislative Committee that you would join that committee, representative because I think you have well, you have more experience and insight into this than all of us, perhaps combined. So I personally would welcome your participation on the legislative committee and what what you choose to do. I think everybody would likely go along with it. So that's my response.

Emily

I would just agree that if you prefer to be on a different committee, we'd probably want to talk to you about what was going on, what was bubbling up in the Legislative Committee anyway. So. I suspect we'd want the guidance from both of their representative members, the senator and you on anything that comes out of the Legislative Committee.

Kariun

OK. Sounds good

Mark

And as as as a quick follow up. Representative, the legislative committee's first item to address is a bill that you are likely remember very fondly that you and I had a couple of discussions about, and that will be fees. That will be the very first item that this legislative subcommittee will be taking up. So I I suspect that you might want to be on that subcommittee, just say. I do see Steve's hand up as well.

Steve

Thanks, Mark. Just a couple of thoughts. I think that I think it probably makes sense to have Todd read the same list for the Legislative Committee. It did include some things other than fees, although it seems like those are probably going to fall further down. My observation because I spent some time with both of these lists before the meeting, and that was the the thing that I certainly mark is there's a good deal of overlap among among these. Each row of ideas and then across that the two committees. So I think I was going to suggest in terms of that item, B on the agenda where we're defining work assignments. Maybe we can leave that kind of loose so that the chairs can can sort of sort that out?

I can share this thing that I've prepared if it's helpful or maybe it's just with the chairs to try to sort of group think together into like piles of things that might make it a little easier to sort out.

But anyway, that would be that would be my suggestion. And the last thing on that is I would be happy that the vice chair of the legislative subcommittee. Oh, one more or last thing. I did notice that the membership of that subcommittee is a little bit lacking in in public body representation and think it would be helpful if there are people without assignments. Yet that could be a place to look to.

Mark

Thank you, Steve. I believe we have another hand-raised. Todd, I can't. Adam, I believe.

Adam

Yes, hi, everyone. I think I should I'd love to be. A part of the non-legislative group. I think I'll get enough of the legislative stuff in my day job.

Mark Landauer

Thank you, Adam. I appreciate your willingness to step up. I do see that we have okayed that hand disappeared. Oh yes, Tony, please.

Tony

That was me. I was wondering if we have all three committees that we can just take a stab at, like a one sentence description. So I I appreciate that we read all the items, but so I got the non-legislative committee discusses ideas, projects, research and other matters not tied to the Oregon Legislature and making laws.

Tony

Does that sound OK? OK. Thanks.

Mark

I like it. Thank you, Tony. All right, so for the non legislative committee, do we have any other volunteers who are on the council who would like to do that work? We have a new member, Adam Crawford. Again, thank you, Adam, for volunteering.

Mark

one of the things and back to Steve's suggestion, I think one of the things that we might want to consider, and I'm certainly not wed to this, but allow for the subcommittees to meet and to decide who their chair and vice chair are, although we know who the vice chair of the non-legislative subcommittee will be with Steve's volunteering for that position or on the other hand, we could certainly figure that out, now. I'm not wedded to either approach, Todd, but it does seem to me that we it might be beneficial for us to assign leadership so that somebody in those subcommittees is responsible at the outset for getting a meeting convened of those subcommittees. That's just my my thinking, and I don't know if anybody has any other thoughts, Todd. Please go right ahead.

Todd

Sorry, is the organizer, I can't actually raise my hand on this thing electronically. Yeah, Mark, I just wanted to say, I agree with you because someone's going to have to organize the meetings to happen before our December meeting.

So it's probably better to charge someone now to do that or to pick leadership, in my opinion. And since people are actually willing to step or step up, myself included, it might be easier to get that done now.

Mark

Actually thought, if I remember correctly, you volunteered to be the chair and Steve volunteered to be the vice chair. I would say, do we need a formal motion for that or do we just go ahead and not our heads and move forward?

Todd

I think a head nod is acceptable.

Mark

And Tony blessed it, so we're good there. Thank you, Tony. All right. So we have a chair and vice chair for the non-legislative committee. And to suggest that you guys

can figure out if and when you will be meeting and if there are any other volunteers on the council that would like to participate unless you speak up now.

All right. Let's move over to the legislative committee. Todd, I don't have that document up in front of me. I know I had volunteered to participate on that, but as chair of the council, I do not intend to pursue a chair or vice chair of any of these committees because I have enough responsibility keeping you all on the ranch. So we've got Todd before the legislative committee. Emily. Steve. Senator Thatcher. Shirin. Myself. Rep Power. Are there any other individuals that would like to participate in this particular subcommittee?

Todd

And Marc, if I might, I shouldn't. Maybe I shouldn't have been so presumptuous putting power on there. It sounds like she was talked into it, but I don't want to put her there if she doesn't want to actually be on that subcommittee.

Karin

No, not at all. Thank you for having me in there. That's that was my understanding of the previous discussion.

Mark.

Great. Well, in that case, if we don't have any further. Actually, I spoke personally with Rob Bovett about this particular subcommittee, and he had agreed, at least to me, that he would serve on this subcommittee. So if we could place Rob on the Legislative Committee, I would appreciate that even in his absence. And Tyler, I'm sure you'll remind Todd of that or excuse me, Rob of that. And then I suppose we should probably set up a leadership of this particular subcommittee, both a chair and a vice chair. Are any members of the committee, subcommittee, I should say, willing to serve as the chair of the legislative subcommittee? Well, thanks for everybody running up and volunteering. Very much appreciate it if if, if it reverts to me, it reverts to me, I'll I'll do it, but I prefer not to anybody.

Todd

Mark, I'm on the volunteer as vice chair since I'll be in a support capacity anyway, but I don't want to chair two subcommittees.

Emily

OK, it's time for the sub chair. I would volunteer as the chair, but I think I interrupted somebody who maybe wanted to do it.

Karin

No, I was going to offer. If it helped either our office or Senator Thatcher, if her office is here in terms of helping to schedule and facilitate because I know that a lot of work in and of itself.

Mark Landauer

That's great. Thank you, representative. All right, well, it sounds as though we have a vice chair, Emily, did we get a chair? Anybody?

Emily

Sure, I'll volunteer for chair with you since I know there's strong support in Todd as Vice Chair for Ethics.

Mark

Terrific. Thank you. And then for our bylaws subcommittee and as a reminder to the council. This will group will work on bylaws by which the Public Records Advisory Council will operate from. And I know that we have Scott, Molly, Tony and Senator Thatcher. Are there any other potential candidates who would like to serve on the Bylaws Committee? I expect that this will be a pretty short term subcommittee. And and so hopefully the work of this particular subcommittee can be wrapped up by the end of the year, which is an enticement for those of you who might consider serving on it. Are there any other volunteers who would like to serve on the bylaw subcommittee?

Michael

Hi, Mark, this is Michael Kron, I am not going to volunteer for this committee, but I'm afraid that I was having connection problems while you guys were talking about the Legislative Committee and the committee that I would prefer to serve on if it's not too timely for me to make that request.

Mark

No, Michael, you're more than welcome to join, I know you have a lot of experience in this in this area, so your participation would be welcome. Thank you. Still looking for a vice chair and chair volunteer for the bylaw committee, if not, well.

Tony

Go ahead. I'm sorry to interrupt. Mark. Scott, I really liked the idea that you mentioned last week or the last meeting about bylaws that were especially inclusive. And so I'd be I don't know. I think I forgive me if I'm wrong, but I think you meant that you'd be

willing to chair. I'd be happy to back you up and I chair if you want and we can knock it out before your term is done with with the rest of the committee members.

Scott

Yeah, I think that would be that would be great to have you on board. I have a kind of wish kind of wish Rob was here. I have a question about the nature of these committees. Are these are the committees advisory to actually...

I'm sorry, I'm thinking, really? So these are the committees are public bodies in and of themselves, correct? So we would comply with the meeting rules.

Michael

This is Michael Kron, I definitely think that is right.

Scott

So I'm looking at the roster of the Legislative committee and people make their own calls on this, but if this group comes up with a bill. And I'm looking at the people who are going to be in the camp working the bill. You're going to have a quorum of that group, meeting on this topic, and that strikes me as a challenge.

Mark

Well, let's have let's have a discussion about that. Scott, I think that's a fair point to raise. And of course, me not being an attorney, I will probably not be interjecting any of my opinions but I'd certainly be interested in Michael and Todd's thoughts on on Scott's point.

Michael

Can you kind of say that again, Scott, I'm not sure is the issue that there are so many of us that a quorum of the subcommittee is also a quorum of the committee or something?

Scott

Well, if it's a quorum of the subcommittee and the subcommittee is a is a is a public body for purposes of the Public Meeting Law, I don't know that the legislators would count towards the quorum because they would serve if they're serving ex-officio in the subs, but that would be an interesting clarification, but if you had the people who are going to be working in these bills or be talking about these bills in the capital, and they might be doing so from the capacity of representing their clients. They would be, that's a potential serial. It could be I mean, I think there's a huge potential for a serial meeting violation, but there's probably also a large potential that they would they

would be in a quorum at the same time without a notice, talking about a matter that was on their agenda, deliberating on a matter that was before them.

Emily

Scott, you mean when you're down in the capital lobbying, sort of, not serving in the capacity on the PRAC per se or the Senate Committee, per se, but you went up in the same room, is that the scenario you're painting? I'm not totally sure I follow either.

Scott

So this is and this would be a really interesting conversation in the bylaws committee too, I suspect. But a quorum, a quorum of the subcommittee can't meet without a notice, a public notice. If they're going to end well, they can't meet, if they're deliberating, they're talking about an issue that was before they're their, their, that was on the agenda that was part of their work product. So if they're in, if they're in the course of doing their job and then say, Michael talks to Mark. Mark talks to Shirin. Shirin talks to Todd. And you get in that happens often enough. It's what you get, what's called a serial meeting violation.

Emily

But would those conversations that.

Scott

You have sort of have a rolling quorum.

Emily

Is, are you concerned that this serial meeting violation would be triggered just because they would have conversations about other things or because they would have conversations about items on the agenda?

Scott

If they're having a conversation about a topic that was on that they were that was part of their agenda, part of their it was part of their work product. I'm assuming that they're sending bills, those bills would be subject to those quorum requirements.

Les

This is Less, one clarifying question, my presumption would be that these subcommittees would all eventually report to the full council and that any item advanced to the Legislature would be an item promoted by the entire council, not by

one of the subcommittees. So strange to me, Scott, that the issue would be the Council and not the subcommittees unless I'm missing something here.

Scott

Well, that's why I asked the question about the nature of the subcommittees. If there are public bodies in and of themselves, then I think we would need you would need to have, it may be advantageous to, you're going to have to figure out a way to to to do that work plus, for these people to do their work in the [capitol]. But if the subcommittee if if you're if the subcommittees are merely advisory to the full council, maybe that's not the issue. That's not as that's not as significant of an issue.

Les

Well, I would think that we would be acting in the capacity of the council and not the subcommittee, but.

Mark

Let's let's if I may let's and Scott, I think you're raising a very interesting point. I'd like to hear from Michael and Todd. Let me share just my initial sort of reaction, though. This is the Public Records Advisory Council and the purpose, one of our purposes is to provide transparency to how government operates. With that being said, it would be the chair's desire, at least to not keep these meetings in secret. And hidden from the public, I think that the public should be able to participate in the work of the committee or the council and or be aware of the operation of its subcommittees in the spirit of transparency.

With that being said, whether or not these subcommittees actually meet the technical definition of public meetings, I cannot answer that, but it would be my hope that the council as a whole would agree that these meetings ought to be noticed to the public and the public ought to be able to, at a minimum, listen in. Having said that, I'd love to hear Michael and Todd's sort of response to this conversation and Less, I do note that your hand is still raised. Perhaps you can interject before we hear from the highly learned lawyers in our group here.

Les

Oh no, I differ.

Todd Albert

Well.

Michael

Let me let me take a.

Todd

Go ahead, Michael.

Michael.

So I think absolutely that these subcommittees will need to follow the Public Meetings Law. I would kind of like less be very surprised if there was like subcommittee members collectively working to actually do lobbying in the building on on bills that the PRAC had supported following a recommendation from the legislative subcommittee.

So I guess what I think we would want to handle this is just with the clear expectation that if there's going to be anyone lobbying on behalf of the PRAC or its subcommittees like the latter really just shouldn't have an actual input.

So let's just say if there's anybody lobbying on behalf of the practice, first of all, it should be with the express approval of the full committee. And second of all, it should just be like one, or maybe at most two people. So we're not ever going to have have a quorum issue there.

Does that seem to you, Todd, like it addresses? If I've understood the concern correctly, which I'm not 100% sure I have, but if I have, that would be how I would address this.

Mark

I'm going to take a quick prerogative here, and perhaps I'm assuming something from Scott's statement. But if you do look at the Legislative Committee, depending on how you count it, it could be considered a quorum of the PRAC.

Right? Therein is the challenge and why I had sort of indicated that I believe that we should be noticing all of these subcommittees as if they were public meetings, despite the fact that at least for the Non-legislative Subcommittee in the Bylaws Committee, we are going to reach a quorum of the PRAC.

But I still think it would be a disservice to the public to not notice and make available to the public, to listen in to those those discussions.

Michael

Yeah, I think that part is right. And I think actually that part is legally required like the subcommittees are their own public bodies that are going to be meeting the requirements of the law. But even if it's not required for some reason, I'm not thinking of right now. Absolutely. We should do it. I was more focused on the the problem of what we're doing, this lobbying work. Are we going to run into problems and how we might avoid that.

Todd

Mark, I would just add, I agree with everything that's been said. These committees are merely advisory to the full body, but should follow the public meetings requirements, whether or not they are actually obligated to do so, including notice. Public feed ... by feedback is really important for the work we're going to be doing to Scott's points, no matter who's in the building, doing the work we're going to be. We're still obligated to uphold the public meetings requirements, including avoiding serial meetings just like we would from full committee work.

So whatever happens in subcommittee, it would be the exact same thing, the exact same requirement. So as long as we adhere to what we've been doing in full committee for our subcommittee work and being mindful of our obligations when we're in the building and outside of these meetings, then I think we'll be OK.

Mark

I saw Steve hand up first. Emily is on deck. And Tony, you're in the hole.

Michael

It sounds like maybe what Scott's describing is during session. You know, the common practice of forming a work group to negotiate details of a bill, and I guess conceivably like the seven members of seven voting members of the Legislative Committee who constitute a quorum of the full PRAC could be that working group like outside the context of the PRAC. If there were no PRAC, maybe the working group is it or maybe, maybe the subcommittee is the working group or the PRAC is a working group. And it's all done out in the open. But that's I guess if the concern is a member of this committee wishes to preserve the ability to hold a working group outside the confines of a public meeting as a public body, that might be difficult. And I guess that I mean, it's a kind of legitimate question, like once once the session starts and there's an agreed upon bill that is like the PRAC bill, assuming we get there, then you know what, what our members obligations as individuals or how how will they conduct themselves as representatives of their organizations or representatives of the PRAC? I mean, I don't know the answer to that, but I think that is that the scenario, I mean, is

the working group idea the flexibility to be able to communicate with these other six individuals, Scott, is that is that what you're? Or I guess ...

Scott

That that's half of it. The other half is, let's say I'm just going to run through it. Like maybe the analogy is contact tracing, which I guess we're now all familiar with, but the let's say. Rob asks Todd, hey or Todd tells Rob, "there's an amendment to our bill. Where are you on the bill?" That conversation, there's no quorum because that's Todd and Rob. Rob says to Mark, "hey, where are you on the amendment?" Who then might talk to another member of who was planning to testify? None of that is none of that is intentional, but you create eventually that that chain which would happen could happen very easily and very quickly.

That chain will eventually become a quorum, which is it may not be an intentional violation, but it's still a quorum has discussed an item that that was on an agenda that deliberates. And this is and this is how we we actually train our members as part of their elected or elected official orientation not to do that and how and how to avoid that situation. So I think we we deal with this. We deal with this pretty daily in public, on the public side, so it's almost second nature to for some of us at this point. But so that's that's that's part of the scenario a work group would be easy. We could just notice it.

Michael

Can I ask a follow up?

Todd

Aren't we already in this situation now in our full committee? We're under the same concerns and issues.

Michael

Yes

Scott

Potentially. But it's a larger quorum number.

Michael

I also really think this is a serial meeting thing and this, you know, this came out of the Lane County decision and the Court of Appeals focused there was really on the like intentional or the the trial court's too was on the intentional skirting of the quorum requirements so that it's not just like I talked to Rob about the bill. And then Rob has a

separate conversation with Emily about the bill. It's I talked to Rob about the bill and then ask Ron to tell Emily what I'm saying about the bill, right?

It's is a very specific type of behavior that the courts were really concerned about where you're effectively having a meeting, where you're learning about the views of everybody or at least a quorum while avoiding the requirements of the public meeting law.

And I just really can't quite envision the circumstance in which our members would would do that, honestly.

Scott

Well, I know nobody on this commission is going to do what happened and that's in that in that fact pattern. But, I think the consensus from the counsel that I've talked to who are on that case was that the judge really couldn't nail them for what she wanted to and this was a case they settled for this. I'm simply if if you don't think it's an issue, then I'm sorry to have taken us down this rabbit hole. But this is and this is what we train our members to avoid.

Michael

Well, I think it is a good thing to avoid, but I also don't, I mean, I think that we can we are in that position already.

We should generally not be talking to each other serially about the business of the PRAC and certainly doing it does get in the way of deliberately trying to deliberate without having to get together as a quorum ...

Mark Landauer

I'm sorry, I forgot, I forgot to unmute myself once again as a reminder, won't be the first or the last. Emily, I believe you had your hand up, but it's now lowered. Are you done? Because I believe Tony was in the hole and you can get back to Steve here.

Emily

My question was answered. Thank you.

Mark

Tony. You're up.

Tony

Yeah, it was just a really quick question slash request for a reminder. This feels like the advice that we've gotten from the very beginning of not communicating via email with each other, and that if we needed to communicate with a whole group, they would should be sent to the advocate and, you know, in this case, talk would then send it out to the entire group. It feels like people shouldn't be talking to each other like Michael just said anyways. But I never I didn't know about the chain public meeting, so I really appreciate, Scott, you bringing that up because I hadn't realized that a chain discussion is because I don't think I should have known that. So thank you.

Mark

And I will echoed that sentiment. Tony, I do think that's a valuable discussion, Scott. I do think that we may be able to get this addressed in the bylaws. Just as a reminder. Don't send emails to individuals. Steve, you're up.

Steve

I would echo all that. I mean, we could in this scenario of the working group like if, say, we end up with a bill from this Legislative Committee and it's in session, you know, we could, but we definitely members should air on, like if there are things that they wish to deliberate with fellow members on, then that should be in the context of a subcommittee meeting. We might actually think of that as being the working group. What otherwise would be a working group for hashing out differences like in real time.

It could be a really radical experiment in transparency to basically say what ordinarily would happen in literally a backroom of the Capitol, would happen in in sunlight? And it raises some practical limitations, and it could slow down the process a bit. But it would be a really interesting thing to see if we sort of defaulted to this being the place to hash those things out.

Mark

I want to try to wrap this conversation up. I think we've. Are all sensitive to the fact that these discussions could and probably are public meetings, and that we ought to operate as though these subcommittees are public meetings and that they ought to be open to the public. Is there any disagreement on that point?

So it's my takeaway. That these subcommittees ought to be properly noticed, and Todd will end up likely relying on you to put those public notices out simply because you're already doing it for the larger council, and I suspect it's not too difficult to do that.

Mark Landauer

Please let us know, though, if you feel otherwise, because I don't need you overwhelmed with doing subcommittee work when you have other responsibilities as well. Um? Are there any other comments for the good of the order, I believe that we've sort of covered A and perhaps part of B, but under item number six, are there any other conversations we need to have at this point thought I'm going to sort of look to you and the rest of the members, the council? I see Tony almost raised his hand. Emily as well. Tony, why don't you go ahead and listen to it, Emily? And then we'll have any other follow up from Todd at this point.

Tony

I was just going to suggest that we had talked about last meeting if the subcommittees would be required to have minutes as well. It's I've been looking up like a general, just like a template that I'd be happy to share with all the committees that people can just kind of fill out. I didn't know if there was any interest in talking about how to record keep these public meetings or if that was necessary at all.

Mark

Thought, Oh, it's a it's a it's a great point, Tony. I think that it's a valid point and we'd all suggest unless there's unless there's pushback, is that the subcommittee's figure that out among themselves, each subcommittee has a vice chair and chair, and they'll have to figure out the rules under which they're going to be operating with the understanding that these are well for our purposes, be considered public meetings and open to the public. But you are right. I do believe that as a result of us being public meetings, that there needs to be some kind of record of what occurred during that meeting as well. Emily.

Todd

I'm sorry if I could just interject for a quick second to put a bug in everyone's ear. Just a reminder that there's more than one way to fulfill our meeting minutes requirement, and that could even include posting a video. We already do extra in this committee, which are in this council, which is great, but just fly, and we could talk about it in between meetings as well.

Emily

Thanks, Todd, for that reminder. And yeah, it is nice to have a range of ways to fulfill the law. I just want to say this a great time to commend Tony on the really exemplary meeting minutes he's been putting together.

I mean, it's it's I've been looking actually at what other public bodies do to get a sense of where we're landing. And I think at some point we may be able to just say, Hey,

here, give some advice, like, here's best practices in this video age plus hybrid in the future and encourage that. And so thank you, Tony, for taking that extra step. My question about these, I, my hands, is because about item number six, be established duties for each subcommittee. I mean, I think we're clear, right? The subcommittee's duties are to go figure out what their what their priority is, and then I guess we're, I'm not clear, is like at which points are the subcommittee supposed to come back to the full council and get sort of the green light, right?

So if the legislative committee meets, subcommittee meets and and we prioritize, you know, three items to go after legislation and do we need to come back to the PRAC and say, "Hey, you know, we really want to prioritize these three or we're all in on fees and we're not touch anything else this year."

And just do we need the green light from the track to continue that work? And when are we supposed to report back? Would be great to have a little more clarity about that, if you don't mind.

Mark

Who wants to address Emily's question? Todd

Todd

Well, I don't know if I have really a fulsome answer rather than we're going to have at least quarterly meetings by custom, even though we're not obligated to do so. That's kind of where we landed, it seems.

So how about at least an update or a report at each meeting? But I don't know if we. I really don't know if we want to then sort of provide feedback to that subcommittee and say, "Well, yeah, do this, don't do that."

Or do we merely wait for essentially final recommendations from each subcommittee, trust them to do the work and don't use full committee time? So I like reporting each at each large meeting, but I don't know if we should be directing more than that, at least until they get to a final product.

Mark

I would agree with that sentiment. Todd, thank you.

Emily

I mean, also, it'll be on the agenda, right? So. With some advance, but like what what was talked about in subcommittees, so people like if it seems like it's a juncture where

the PRAC wants as a whole wants to say, no, you know, we've got we've got some concerns, then I guess it could happen as necessary. Is that is that a that that work for everybody?

Mark
Steve?

Steve
Since we were talking about the the work for each committee and what they're what their agendas will be. I just thought I'd share something. The thing I mentioned earlier, just this summary of kind of topic areas, it's helpful this year and I'm sure here in the chat.

Mark
Actually, I don't know, I might be able to pull it up.

Todd
Oh, Steve, I think I can share your document. I'll go find it. Hold on.

Steve
So that whole time, this is a subjective categorization, but there were several suggestions, for example, around surveying doing more surveys on public records policies, and that would be what I call data gathering. There was one suggestion to revisit the 2017 deadline deadline bill, and there are a bunch of questions about exemptions and how to address those and fees. Those are the two big things in terms of the number of people who spoke up on them under legislative, although they also did come up a little bit on a non-legislative Public Records Act as an institution that would be things like the person who suggested the ten year strategic plan request.

A public body awareness is things like, you know, identifying model model policies and practices, best practices, trainings and things like that. Requester awareness is also pertaining to the public. There's some retention issues, and then there are various issues other transparency by design, like proactively trying to anticipate needs for further disclosure and more efficient ways to do that.

So it seemed that some of these. So it seems like maybe the chairs or the two committees can sort of decide between the two of them, like which of these is going to go into which bucket.

Mark

Yeah, I want to be sure that we really empower the subcommittees to take on as much as they want, and despite the fact that the PRAC, the full PRAC can, I suppose, provide a little bit of direction, I would expect and hope that we will all trust the subcommittees to do the work that has been outlined on this very comprehensive and colorful graph that Steve has put together. So, my hope is that that we can use this by the subcommittees to do the work that that we anticipate and allow those subcommittees to prioritize among themselves which issues ought to be raised.

If you don't think that issues are being raised in a subcommittee that ought to be raised, then you ought to be on that subcommittee, right? So if you have an interest in moving a certain item that's on this, uh, this list here and it falls into a subcommittee that you don't happen to be a member of, well, you might want to rethink, at least in my opinion, which subcommittees you're participating on. Emily, are your is your hand still up? Okay. So it appears as though we have our chairs and vice chairs for the subcommittee to Todd, do we have anything under Item B that we need to, on item number six, excuse me, sub B? Do we have anything else we need to discuss? I'm not just for Todd, I suppose it's for the rest of the council. Is there anything else because we can certainly go to the next item agenda, which I would note happens to be the last agenda item for today's work.

Todd

Thanks, Mark. I would just say, let's make sure that Emily, Scott and myself, as chairs of these subcommittees, commit to calling at least one meeting before our December meeting, which I suspect we will all do. Subject to everybody's schedules, obviously it's great to get started, but just put that out there.

Mark

And I would also note, Todd, I believe that the legislative committee during our last meeting targeted a 2023 attempt to get something on fees that would be the legislative committee's goal, at least as it was stated during our last meeting.

Todd

I think that's a great goal. I certainly have my own opinions about what needs to go into any sort of stakeholder work to make this happen, and if that means whether or not we could get to 2023, but I'm sure that I'll be ripe for ample discussion in our subcommittee meeting.

Mark

Well, we may be forced to have that discussion, whether or not the project comes up with a bill because there is an ex-officio member on this committee who has a very

distinct interest on this topic. So I don't want to be seen as kicking that can down the road any longer.

Shall we just say, OK with that, I will close up. Item number six on today's agenda and open up a discussion for setting perspective agendas for our next meeting. Todd, will you remind the council when our next regular meeting is scheduled? I believe we have another meeting set up. Is that correct or am I incorrect on that?

Todd

You are correct, and I'm going to confirm the dates, I don't say the wrong one and then have to change what I'm saying. We are set for 2 p.m. on Thursday, December 9th. That was the best date available after the Doodle poll.

Mark

So you kind of were cutting in and out on me, so I didn't understand a word you just said, but I'll nod. Sorry, sorry about that.

Todd Albert

Thursday, December 9th, 2 [p.m.] to 4 p.m.

Mark

OK, so that is our next prospective meeting in December. Obviously, it would be the chair's hope that that the subcommittees will have hopefully met, at least by then. So I'm hoping that we can have an agenda item of a quick report from each of the subcommittees.

I'll shut my pie hole at this point and see if any other members of the council have suggestions at this point. Thank you. All right. Nobody's stepping up. Perhaps, Todd, another agenda item, and you and Emily discussed this just for the helpful understanding and knowledge poured myself and Emily did have a conversation about two weeks ago about agenda setting and how we will be coordinating among ourselves as the advocate, the vice chair and the chair of the PRAC. There were a couple of things that I requested be included in our regular agendas of the PRAC.

One of those items was a report from Todd on his outreach effort. Another was on sort of providing us a report on his mediation effort. Those are two of the advocate's, if I may say so, primary responsibilities. So we will get regular updates from Todd on that.

I also requested that for each meeting, the public be given an opportunity to address the PRAC so that if people choose to want to participate, that they be given that

opportunity. With that having been said, are there other items that folks would like to have on our future agenda?

One other note before I get to that, though, I have requested that we get a briefing from the Sunshine Committee. Michael Kron. That will be probably you, of course, as to the work of the Sunshine Committee, because I one of the fears that I have when we're talking about the exemptions is that we get crosswise with the Sunshine Committee. I think it's important for the Council to understand what the Sunshine Committee is doing, where they are in their work, so that we can hopefully avoid getting crosswise with the work that we're doing, they are doing.

And I don't want us to be duplicating perhaps the work that they're doing. Les, I see your hand. Thank you for bailing me out.

Les

Someone's gotta quiet Mark. No, I just want to follow up on your point about, you know, making sure that the public had an opportunity to address the Council. And I think we to do everything possible to to invite the public participation and I don't know how we can do it and Todd this would be kind of in your wheelhouse. But when we move on our agenda and post material to invite people that that they can submit written comments to us as well. They don't have to attend a meeting to influence what we're doing.

Todd

Thanks, Les. I can include that in my listserv or distribution list, I guess, is the more modern term and Twitter notice for each meeting. And Mark just a point of order, if I may. Based on our discussion, I was going to report on mediations and trainings rather than outright.

Mark

That's what that's what I meant. Thank you for Todd for correcting me.

Mark Landauer

And yeah, and I don't want to cut you off. Yeah, Michael, just hold on for a second. Les I just want to make sure that you you finished up your point there because your hand is still raised and I don't want to interrupt you. We which have already done.

Les

No, you did it effectively, and I'm going quiet.

Mark

Okay? Michael, I know that Scott's hand is raised and you may not have the hand raising function because you're calling in. So go ahead, please.

Michael

Yeah, sorry about that I did when I was online, but it was very choppy and eventually just disconnected me. So yes, I do not have the advantage of that, but I just wanted to say, Mark, that I would be very happy starting in December to have like a standing agenda item, be a brief report for me on the Sunshine Committee's work. And I also think that another good standing agenda item, frankly, would be this one, which is that at the end of our meeting, inviting members to sort of propose agenda items. Other than that, I think that, you know, the things you've identified from toward the public participation and then our subcommittee work and reports, to me, that feels like a pretty full agenda for a meeting of the committee.

Mark

Thank you, Michael Scott.

Scott

I was just going to add that I think at a public, at a public meeting provision within the bylaws, something that was envisioned. It's pretty it's something that we can certainly incorporate into our official policy.

Mark

Yeah, great. I hope that that's what we would do if not for ourselves, but for potentially future members of the PRAC that that at least this initial council always felt as though the public should have a 100% access to the workings of either the full council or any subcommittees it creates Tony. Tony you're on mute.

Tony

Thanks. So I don't want to get too cheesy, but I wonder if there's a way to like maybe put on energy agenda item like something to celebrate the public records. And I can give an example or just to highlight something good for for public records.

I came across today, I was researching something and I came across. The Arkansas Press Association has a really, really great tool for the public that I used to carry around in my back pocket. And I was wondering if I can share links on our meetings.

Is that allowed? So I'll just share this link. If you guys are interested in looking at it and the people that wrote it. This tool has been around since the sixties, and it's got

even a script. So public meetings in Arkansas don't have that, don't have the privilege where reporters can come into executive sessions.

So sometimes when there's executive sessions reporters, can this book? This book has a essentially a script that reporters can can, I guess, essentially speak out loud to put on the record. Anyways, it's a cool tool, and if folks are interested in just kind of seeing how other states handle this, I'm going to drop it in the chat right now. That's all I wanted to say. Thanks.

Mark

Thank you, Tony. Steve.

Steve

So along this lines of good news and celebration, and I'm sorry that Representative Power had to run, but I don't believe that since we've been meeting post session that we've ever taken at time to commemorate the passage of the the independence legislation.

And I think we ought to do so at least once. I'm really I'm really glad that that the bill passed and I'm grateful for all the people who made it happen. And I'm grateful to you, Todd, for bearing with this process and making sure that it got done so.

Emily

Cheers. Yeah, cheers. Thanks for bringing that up.

Todd

Here, here. Thanks, Steve, and thanks to all of you.

Mark Landauer

For your work. Well, perhaps the pile on, Steve. This morning I spent an hour with Emily. You'll have to remind me who George is with the Washington Open Government [Emily] Coalition. [Mark] Thank you. I spent an hour today on the phone with a gentleman from Washington, from the aforementioned group talking to me about the genesis of the PRAC, which was a bit of a challenge because I had to go all the way back to 2015, and I won't remind anybody of sort of what's on the all the public records bills that were enacted in 2017. But it was a fascinating conversation.

And just so you folks know it appeared to me, at least from that conversation that there are people in the state of Washington looking to possibly replicate what was done and what we are all involved with here in Oregon.

And that's a similar type of public records advocate who is independent. And so, people are people are watching what we're doing, folks, and I thought I would just share that with you all. And it was an interesting conversation with that.

Mark

I think we've pretty much completed our agenda for today. But before we conclude, is there anything else that might be relevant and or good for the order? All right. Hearing none, I would entertain a motion to adjourn. Unless anybody has anything else going once, going twice.

Tony

So moved.

Scott

Second

Mark

Oh, thanks, Tony, Scott. Uh, today's meeting is adjourned. Thank you. Everybody have a wonderful weekend. Go Ducks and Beavers.