



Correspondence Regarding Oregon Open Records Law

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From: LEAMING Gary W

Sent: Friday, August 10, 2007 4:37 PM

To: HEITSCH Bonnie

Cc: ANDERSON Arthur H; RANDLEMAN Jayne A; MARMON Jerry

Subject: Opinion Please- Oregon Open Records Law and ODOT Project CAC and PDT Votes

Bonnie:

A question came up from Josephine County Commissioner Jim Raffenburg and Grants Pass City Manager David Frasher who are on our Highway 199 Project Development Team.

Prior to today's vote on whether to forward an alternative for further study, both individuals took exception to the secret written ballot on whether to forward it. They believe, or are looking for an opinion otherwise, that these project votes should be open- i.e. that names should be attached to the ballots. They are comparing this appointed committee with publicly elected bodies. If you recall the Project Development Team is the decision-making body-recommending build alternatives to ODOT Management- on these NEPA projects.

What is your opinion and what does the ORS say?

Thanks.

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-----Original Message-----

From: Heitsch Bonnie [mailto:bonnie.heitsch@doj.state.or.us]

Sent: Monday, August 13, 2007 11:48 AM

To: LEAMING Gary W

Subject: FW: Opinion Please- Oregon Open Records Law and ODOT Project CAC and PDT Votes

The County Commissioner is correct in his opinion that governing bodies must make decisions by public vote - i.e. a secret ballot is not appropriate.

The issue is whether the Project Development Team is a "governing body" that is subject to the public meeting laws.

A body that has authority to make recommendations to a public body on policy or administration is a governing body. ORS 192.610(3).

An advisory body may be appointed by a state or local government agency or official. If that advisory body does not exercise other governmental powers, it is a governing body only if its recommendations are made to a "public body."

We have taken the position that ODOT Project Development Teams are not typically a "governing body" subject to the public meeting laws. This position is based upon the fact that Project Development Teams are the creatures of the ODOT director and not the Oregon Transportation Commission. The OTC is the governing body and decision making body for the agency. If the project development teams were appointed by the the OTC and the recommendations were reported directly back to the OTC, the Project Development Team would be subject to the public meeting laws.

The public meeting provisions are provided below. If you have questions please call.

192.620 Policy. The Oregon form of government requires an informed public aware of the deliberations and decisions of governing bodies and the information upon which such decisions were made. It is the intent of ORS 192.610 to 192.690 that decisions of governing bodies be arrived at openly. [1973 c.172 §1]

192.630 Meetings of governing body to be open to public; location of meetings; accommodation for individuals with disability; interpreters. (1) All meetings of the governing body of a public body shall be open to the public and all persons shall be permitted to attend any meeting except as otherwise provided by ORS 192.610 to 192.690.

(2) A quorum of a governing body may not meet in private for the purpose of deciding on or deliberating toward a decision on any matter except as otherwise provided by ORS 192.610 to 192.690.

(3) A governing body may not hold a meeting at any place where discrimination on the basis of race, creed, color, sex, age, national origin or disability is practiced. However, the fact that organizations with restricted membership hold meetings at the place does not restrict its use by a public body if use of the place by a restricted membership organization is not the primary purpose of the place or its predominate use.

(4) Meetings of the governing body of a public body shall be held within the geographic boundaries over which the public body has jurisdiction, or at the administrative headquarters of the public body or at the other nearest practical location. Training sessions may be held outside the jurisdiction as long as no deliberations toward a decision are involved. A joint meeting of two or more governing bodies or of one or more governing bodies and the elected officials of one or more federally recognized Oregon Indian tribes shall be held within the geographic boundaries over which one of the participating public bodies or one of the Oregon Indian tribes has jurisdiction or at the nearest practical location. Meetings may be held in locations other than those described in this subsection in the event of an actual emergency necessitating immediate action.

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