

REVISED AGENDA

OREGON OFFICE OF ADMINISTRATIVE HEARINGS OVERSIGHT COMMITTEE

Oregon Office of Administrative Hearings Oversight Committee Meeting					
Date/Time:	August 30, 2022 10:30 am				
Location:	Microsoft Teams Click here to join the meeting				
Attendees:					
	Rep. Paul Holvey, Chair		Kevin Gleim		Sen. Janeen Sollman
	J. Kevin Shuba, Vice Ch		Rep. Ron Noble		Renee Stineman
	Denise Fjordbeck		Jeff Rhoades		Sen. Kim Thatcher
					Rema Bergin
					Robert Unger

AGENDA

	Topic	Desired Outcome	Time	Presenter
1.	Welcome and introductions	Informational	10:30 am	Chair Holvey
2.	Approval of June 15, 2022 Minutes	Action	10:35 am	Chair Holvey
3.	Letter to Committee	Information & Discussion	10:40 am	Jeffrey Rhoades, Interim Chief ALJ
4.	Bylaws	Discussion	10:50 am	Committee Members
5.	Structure of OAH/Agency Overview	Informational	11:20 am	Jeffrey Rhoades, Interim Chief ALJ
6.	Legislative Session	Discussion	11:35 am	Chair Holvey
7.	Roundtable	Informational	11:50 am	Committee Members
8.	Public Comment Period – 3 minutes each	Informational	11:55 am	Citizens
9.	Possible Work Session on Action Items	Discussion	12:00	Committee Members
10.	Adjourn			

**Office of Administrative Hearings (OAH)
Oversight Committee Minutes
August 30, 2022**

Committee and Staff Present

Rep. Paul Holvey, Chair of the Committee
J. Kevin Shuba, Garrett, Hemann, Robertson, PC, Vice Chair
Kevin Gleim, Governor's Office
Sen. Kim Thatcher
Sen. Janeen Sollman
Rep. Ron Nobel
Denise Fjordbeck, Oregon Department of Justice
Renee Stineman, Oregon Department of Justice
Mr. Jeffrey Rhoades, Chief Administrative Law Judge, OAH
Robert Unger, Rep. Holvey Chief of Staff
Rema Bergin, Executive Assistant to Mr. Rhoades, OAH Staff

Other Attendees: Monica Whitaker, Donna Brann, Michelle Morales, Maureen Brinkmann, Nicole Krishnaswami, Rita Nelson, Marie Barlow

Call to Order

The meeting was called to order at 10:30 a.m. by Chair Paul Holvey with a welcome and introductions.

Approval of Minutes

Rep. Holvey called for the approval of the minutes, there being no objections minutes approved.

Letter from the Governor

Rep. Holvey went to agenda item number three regarding the appointment of Chief Administrative Law Judge recommendation informing all that the position is now vacant. Governor Brown requested the statutory recommendation from this committee on the Chief Administrative law judge position by September 9th. He asked Mr. Rhoades to provide more information on this. Mr. Rhoades stated everything is contained within the letter. Effective August 12 of 2022, the governor removed John Mann from the position of chief administrative law judge specifically in the letter, the governor asked this committee to discharge the statutory duty of considering recommendations for the position of chief administrative law Judge. Mr. Rhoades will talk about the OAH overview and a bit of the statutory authority in that presentation as well and go over it later in the meeting. With reference to explicitly, the statute that calls out the duty of this committee to consider recommendations for the position of chief administrative law judge. The letter does put a tight timeline on those recommendations, asking for recommendations not later than September 9 of 2022. For the rest of the discussion, Mr. Rhoades turned it over to the committee for discussion. He also stated that he has not been party to any of the discussions

with the governor's office internally as to what the plans are. He would be happy to answer any questions from the OAH side of things.

Rep. Holvey noted he did have a conversation with Mr. Rhoades and he has expressed interest in staying in this position as the permanent chief administrative law judge. He also received some inquiries from other people that were interested in this position as well.

This is a little bit different path than our past practices have been, where the governor's office has done a candidate search and referred candidates to this committee for interviews and then we would provide our recommendation to the governor. Of course, the governor doesn't need to follow our recommendation by statute. The intent of the legislation is for the committee to make a recommendation on that vacancy. Rep. Holvey stated that it is a very tight time frame and is concerned how we would actually be able to make a recommendation given that there has not been a candidate search and didn't have anyone to interview for the position other than hearing from a couple people at the Oregon State Bar. Rep. Holvey sent a letter to the state bar informing them of this meeting and the prospect that we would be making a recommendation to the governor's office by September 9th. He asked for comments or discussion from the committee at this point. Mr. Rhoades asked if they would like to recuse him from this discussion, Rep. Holvey stated that it was not necessary to do so.

There was discussion from the committee members on the process of the Chief ALJ recommendation and affirmation of the past practices by members of the committee. And discussion followed of what next steps are to proceed forward.

Rep. Holvey stated that at this time he will go ahead and move to (open) a work session on this recommendation and made the motion to send a letter to the Governor's office recommending the Governor at the earliest time possible conduct a candidate search for the position of chief administrative law judge and refer two or more candidates and extending the time frame to the Oversight Committee for interviews and consideration for the recommendation for the appointment to the Governor, and until such appointment that Jeff Rhoades continue as the interim chief administrative law judge. Mr. Shuba seconded the motion. Rep. Holvey called for a vote on this motion and dispense with this agenda item.

Rep. Holvey – Yea
Sen. Sollman - Yea
Kevin Shuba – Yea
Kevin Gleim – Yea
Renee Stineman – Yea
Rep. Noble - Yea
Denise Fjordbeck -Yea
Sen. Thatcher – Yea

Rep. Holvey - motion passed and will have that recommendation sent to the governor's office.

Bylaws

Rep. Holvey stated that the committee should look at the bylaws and consider what needs to be updated. For consideration: The address of the OAH in the bylaws be updated; to reflect ORS183.610 Section 1, that the bylaws Article 1 section 5, make adjustment in the language acknowledging the Committee Duties that is not clear, and the language in that by law should reflect the statute, and the Committee's duty that's described in 183.610 (which is the committee duties and what we're doing today, making a recommendation on the chief administrative law judge position) so language to reflect that duty in there as well. Article three, we had discussed about having regular meetings proposing that we meet in the months of August and January, and Mr. Rhoades and I have had discussions about what the agendas look like for those different months. We'll continue to work on what the structure of those meetings looks like. One is pre-session. One will take a look at key performance measures and some of the challenges of the agency. Having a report ahead of time, generally that's it. Making sure that the meeting notice is posted on the transparency website. Minutes posted on the website. Approving minute's process to involve this committee in a faster scenario. Rep. Holvey proposed that the minutes be approved by e-mail and not in an official public meeting. There was one proposed change in there that he doesn't believe we can do right now. It will be a discussion item for motion on legislation, and that is currently the statute says that this oversight committee is staffed by the Employment Department when funds are available, and that's always been a little bit confusing. For OAH independence, a little bit further away from the Employment Department and few other items along that line.

The office of Administrative hearings has Ms. Bergin to take minutes and communicate with us and she's an employee of the Office of Administrative Hearings. We will have to go through the Legislative Fiscal Office and the legislature to actually make that change before we could put it into our bylaws.

Rep. Holvey opened up for discussion and made a motion for the following changes: The bylaws be amended to reflect Article 1, Section 6, update the current, the current address of the Office of Administrative Hearings.

Article 1, Section 5, add that the Oversight Committee make recommendations to the governor on the appointment or reappointment of the chief administrative law Judge.

Article 3, Section 1A, be amended to say the committee shall meet in the months of August and January or at such times as determined by the chairperson.

Article 3, section 1D states that the meeting notice will be posted on the Oregon transparency website.

Article 4, Section 1, move that the bylaws be amended to state the draft minutes will be sent to the committee members and appropriate staff within two weeks of the meeting. That member edits will be submitted to the Office of Administrative Hearing Staff within 30 days of the meeting and that the final version shall be completed and posted on the Office of Administrative Hearings Oversight Committee website within 45 days of the meeting. The meeting minutes may be approved by the committee members via e-mail or other communication outside of a public meeting, and that the past minutes will be posted on the website, as recommended by Dept. of Administrative Services (DAS). That is the complete motion on the bylaws. Rep. Holvey asked if any comments, concerns, objections to any portion of this. Rep. Noble added that the motion also include a provision that the final version be sent back to committee members for review and any final changes or clarifications by the committee before approval and posting on the website of the final version. Being no further objections, motion passes with Rep. Noble's change.

Structure of OAH/Agency Overview

Mr. Rhoades gave a presentation of the OAH. Some of this is going include OAH statutory authority, our enabling statute here and important discussion to give the background as we go into our discussion about the upcoming legislative session and potentially any changes that this committee would like to consider for that session. Mr. Rhoades gave a detailed overview of the agency. Rep. Holvey commented that he doesn't technically need a motion to draft legislation personally. It his intent to have a legislative concept drafted, and specifically we will we will be looking at the clarification of how this committee is staffed, but would also like to work with Mr. Rhoades, the Legislative Fiscal Office and the Employment Department on the clarification of the statute. The relationship that the Employment Department and OAH have, we do need some clarification around that and there could be clarification on a couple of other things in the statute. But in drafting that legislation and once that legislation is drafted, it would be his intent to bring it back to the January committee meeting to take action on whether they will support a recommendation on legislation or not. Anyone on the committee that has thoughts on the current statutory framework for the Office of Administrative Hearings and what their thoughts might be for any potential changes and will certainly include Mr. Rhoades, Legislative Fiscal Office, the Governor's Office what they may or may not like to see in a piece of legislation to please let him know.

Sen. Sollman brought up the use of certified mail. Mr. Rhoades commented that he will look into the requirements of its use. Rep. Holvey stated that it will be on future meeting agenda.

Public Comments

None

Action Items

Rep. Holvey to send recommendation letter to Governor's Office regarding chief appointment.

Rep. Holvey asked that committee members get back to him with their input to address statute and bylaws in hope of proposal clarification. He will work with Mr. Rhoades on bylaws and legislation to be ready for next legislative session.

Rep. Holvey requested that OAH send agenda, minutes and reports ahead of meetings.

Ms. Bergin to schedule next meeting for January and send out Doodle poll. Post past meeting minutes on website and update it. Link to documents for meetings

Adjournment

There being no further business meeting adjourned at 12:01 pm.