



Rulemaking: Historic Preservation Advisory Committee Procedures

**Public comments received
May 26, 2022, 3:30 pm through
May 31, 2022, 5:00pm**



Submit a public comment on a rule

Oregon Parks and Recreation Department

Proposed rule change:

**Historic Preservation Advisory
Committee Procedures**

Commenter name (if provided):

Brooke Best

Location (if provided): Portland, OR

Public comment:

I'm submitting these comments regarding the proposed rulemaking OAR 736-050-0260(9) that takes a temporary rule for public testimony and makes it permanent. I'm aware that the Downtown Neighborhood Association (DNA) and Kirk Ranzetta have also submitted their comments related to this rulemaking.

First, I'd like to thank both the Oregon Parks and Recreation Commission (OPRC) and State Advisory Committee on Historic Preservation (SACHP) for your dedicated service, especially in light of what occurred at the previous scheduled meeting where SACHP members were assaulted by a racist incident that shut down the October 2021 virtual meeting. No one should be subjected to that in a public meeting or personally threatened while undertaking their committee obligations.

The SACHP temporary rules for public comment was instituted in order to protect SACHP members and meeting participants, which was necessary until a digital firewall could be installed to prevent future abuse. This was achieved by eliminating the ability of presenters to be visible to the Committee and having individual testifiers' public comments reviewed and read by an OPRD staff person.

While I understand the intent of this change, instituting this revised format as a permanent measure will have a profound impact on the public's ability to share their testimony, in their own voice, in a public setting.

We had first-hand experience of its impact at the rescheduled November SACHP meeting, when the South Park Blocks nomination was being considered. The DNA made great efforts to organize a range of individuals who took the time to prepare and present their testimony. While their remarks

were part of the public record, they were read by an OPRD moderator who was visible to the Committee. Instead of hearing and seeing the individual testifier, we heard an unimpassioned white male read the words verbatim. It was more painful and tone-deaf than anything else.

Even more frustrating was the fact that an administrator from Portland State University ((a white male) was able to testify before the SACHP, using his own voice, and express his objections to the nomination. He was elevated to this status by a moderator, who treated PSU as a “property owner,” which is not the case. Instead, he should have been considered a member of the public and treated the same way as the other individual testifiers. Further disappointing was the fact that much of his testimony was irrelevant to the proceeding and did not meet the provisions set forth in this temporary rule, under Section 2, which served as a means to eliminate testimony that is not pertinent to the SACHP’s consideration of the nomination. As Kirk Ranzetta clearly states:

Rather than limiting his concerns to the nomination’s content, the administrator embarked upon a misguided commentary that outlined the purely speculative impacts of the nomination on the 25,000 students of PSU who would be harmed by the listing and how the nomination would serve as a hindrance to the University’s future use of the park that it does not own. And yet, despite the lack of pertinency and even after it was reviewed by OPRD staff, the administrator’s testimony was entered into the record by his own voice despite its unfounded and immaterial content. This behavior was allowed by OPRD’s moderator and the Chair while presumably following the temporary rule’s non-discretionary mandate that notes that “comments **must** *[emphasis added]* address one or more of the criteria in section (2)”. The administrator’s testimony can be listened to at the following link and proceeds from 35:12 to 39:32. See the video here https://www.youtube.com/watch?v=_WmT-schruQ

It was very evident that implementing this temporary rule did not serve equity interests but, instead, showed how it could be misdirected. In this case, it denied the voices of some, while elevating the voices of others. More importantly, this rule is inconsistent with Oregon’s Administrative Procedures Act (ORS 183).

As the DNA letter pointed out, the Portland City Council recently resumed in-person meetings at City Hall (using a hybrid model allowing other participants to be seen and heard virtually). I was part of a group of citizens who showed up to present in-person testimony and from the moment we set foot in the chambers, there was a sense of comradery (and moments of joy and laughter!) being there face-to-face. Everyone there was relieved and eager to be actively engaged with each other – listening and watching people’s expressions and reactions. As the DNA letter states, “It restored a sense of democracy in action.”

OPRD has the ability to develop policies that utilize well-established safeguards for online meeting formats, allowing members of the public to be given the opportunity to be seen and heard. Other boards and commissions across the state have done this, so can OPRD. As the Portland City Council meeting demonstrated, there’s no substitute for in-person meetings. The SACHP should resume in-person meetings as soon as possible, and could easily implement a hybrid format that

utilizes readily available online protection tools.

It would be a huge mistake for OPRC to institute the adoption of this language from the temporary rule. I strongly recommend that OAR 736-050-0260 should not be modified.

Thank you for your consideration.

Brooke Best



Submit a public comment on a rule

Oregon Parks and Recreation Department

Proposed rule change:

Historic Preservation Advisory
Committee Procedures

Commenter name (if provided):

Kirk Ranzetta

Location (if provided): ,

Public comment:

Please find attached my comments on the proposed rulemaking for the State Advisory Committee on Historic Preservation.

Date comment received:

May 31, 2022 08:56 AM

Commenter email (if provided):

kranzetta@gmail.com

Oregon Parks and Recreation Commission

Testimony of Kirk Ranzetta Concerning Rulemaking for OAR 736-050-0260(9)

****A different version of this letter was distributed by OPRD staff to State Advisory Committee on Historic Preservation on February 9, 2022****

Thank you members of the State Advisory Committee on Historic Preservation (SACHP) and the Oregon Parks and Recreation Commission (OPRC) for your service. I wanted to convey how sorry I was that the State instituted a temporary rule as a result of the racist incident that occurred during the aborted online October 2021 meeting of the SACHP. No one ever deserves to be threatened or subjected to abuse like that.

I truly understand that the temporary rule was instituted to install a digital firewall to protect members of the SACHP (and all meeting participants) by eliminating the ability of presenters to be visible to the Committee and for public comments to be reviewed and then read by staff of Oregon Parks and Recreation Department (OPRD).

While well intentioned, this format has a profound ability to significantly harm the voice and visible presence of the public.

As an example, during a November meeting of the SACHP, the temporary rule had the effect of eliminating the face and voice of a woman of color who testified in support of the South Park Blocks National Register Nomination when it was considered at the November SACHP meeting. While the remarks of this individual were entered into the public record, they were dispassionately read by an OPRD moderator who is a white male and was visible. To witness how well this process worked in this particular instance, please review the SACHP meeting from 39:59 to 45:04 for the video linked here: <https://www.youtube.com/watch?v= WmT-schruQ>

Furthermore, during the very same meeting an administrator (a white male) from Portland State University (PSU) was able to use his own voice to testify before the SACHP. He was provided this opportunity by a moderator under the imprimatur he was a "property owner" which PSU is not. He should have been considered a member of the public. Prior to the meeting, the representative had provided written testimony to OPRD staff prior to the meeting concerning the South Park Blocks nomination. Unfortunately, half of his testimony was clearly not germane to the proceeding as required under section 2 of OAR 736-050-0260. This provision is referred to in the temporary rule as a means of eliminating testimony that is not pertinent to the SACHP's consideration of the nomination. For reference section 2's text is included below:

- (a) All procedural requirements are met;*
- (b) The National Register nomination form is adequately documented;*
- (c) The National Register nomination form is technically and professionally correct and sufficient;*

(d) The National Register nomination form demonstrates that the nominated property meets the National Register criteria for evaluation.

Rather than limiting his concerns to the nomination's content, the administrator embarked upon a misguided commentary that outlined the purely speculative impacts of the nomination on the 25,000 students of PSU who would be harmed by the listing and how the nomination would serve as a hindrance to the University's future use of the park that it does not own. And yet, despite the lack of pertinency and even after it was reviewed by OPRD staff, the administrator's testimony was entered into the record by his own voice despite its unfounded and immaterial content. This behavior was allowed by OPRD's moderator and the Chair while presumably following the temporary rule's non-discretionary mandate that notes that "comments **must** [*emphasis added*] address one or more of the criteria in section (2)". The administrator's testimony can be listened to at the following link and proceeds from 35:12 to 39:32. See the video here <https://www.youtube.com/watch?v=WmT-schruQ>

The implementation of the temporary rule, from its outset, readily illustrated how the existing rule can be manipulated, misused, or implemented in a slipshod fashion by participants, agency officials, and commission members in such a way that efficiently denies the voices of some while elevating the voices of others.

Having witnessed the implementation of the rule, the format was on its face Draconian. At worst it was arbitrary, capricious, and inconsistent with Oregon's Administrative Procedures Act (ORS 183). It would not survive a contested case hearing.

Given the profound isolation that many Oregonians continue to grapple with, now is not the time to depersonalize the public, silence voices, and remove faces from the SACHP's record. If it were to be implemented, the new rule would constitute a horrendous precedent that other State boards and commissions will undoubtedly point to as an effective way to truncate the public's voice and their visible presence.

Instead of minimizing the power of public input, I would recommend that OPRD develop policies that utilize well-established safeguards for the online meeting format and that members of the public be given the opportunity to be seen and heard like other boards and commissions have done across the State already. I also firmly believe that in-person meetings provide the public more substantive and productive opportunities to participate. The SACHP should resume in-person meetings as soon as possible but implement a hybrid format that utilizes readily available online protection tools.

While the events at the October 2021 meeting were undoubtedly traumatic, and the impacts palpable, I would ask that the OPRC and OPRD utilize common sense digital protections as opposed to revising the procedures that serve to depersonalize the public, silence voices, and remove faces from a state proceeding.

OPRC should not adopt language from the temporary rule and OAR 736-050-0260 should not be modified.