

Minutes PRAC full committee June 2, 2022

AGENDA BUSINESS begins approx 1:03

Motion to approve last meeting minutes - made by Todd A.

Discussion of delay approval as they weren't sent out.

Move to approve - Steve Suo

Second - Todd Albert

Approved on voice vote. No opposition heard.

Mark Landauer/introduction of new Council members

Todd/unsure who is confirmed

Emily Gotthard/SEIU. Does not believe Senate confirmed yet. Rules Committee hearing 6/1

Paralegal Local 503. Largest public employee union in Oregon. Paralegal for 10 years. Past work includes at Portland State Univ.

Scott Stoffard/LOC representative. City Recorder since 2016 for Milwaukee. Grew up in N. Portland. Records manager, plus elections and other responsibilities. Member of Oregon Ass. Recorders. Further comments on bio. Has worked with Todd's office. City colleagues range from Portland to communities of a few hundred people, such as Halfway.

Note from Scott in chat/Senate appears scheduled to vote tomorrow, per OLIS.

Note from Stephanie Clark in chat:

according to the senate confirmations spreadsheet released by the Gov's office - the term for Emily is a three year term beginning 6/10/2022 and ending 6/10/2025. Scott's term begins on 6/10/2022 and ends 6/10/2026

<https://www.oregon.gov/newsroom/Pages/NewsDetail.aspx?newsid=65202>

based on my previous research in this area, terms can be automatically renewed - appointees are not automatically removed from their seats because their term expires.

Mark L: City of Echo has population of two! So whole gambit.

Mark L: Acknowledges presence of Rep. Power, has been part of the Council from beginning. She is not seeking re-election so her time with the PRAC is limited. Thanks and asks for remarks.

Rep. Power: Been a lot of fun learning and tussling.

Mark L: Any additional agenda items? None.

Motion to approve agenda with no additions. Todd A makes motion. Michael Kron seconds and asks if it is needed.

1:15 Agenda Item #4 - plan annual meetings.

Todd Albert - this item came about when Todd was briefly chairing. Legally required to

meet twice a year to set agenda, as large meeting in fall 2021. Assess work and select future work. Yearly check in.

Discussion:

Mark L: Grand idea. Question on timing. This is the first full PRAC meeting for 2022.

Todd Albert: It would be easy to say let's do October, because we did it last October. I kind of like notion of end of year, but leg calendar may be a consideration.

Steve Suo: Considering continuation of membership and length of term runs. Emily G. and Scott S - are they filling out remainders of terms, or starting four years new?

Steve will check statute.

Micheal Kron: Especially given we are frequently going to be wanting to talk about legislation for upcoming sessions...Perhaps we should decide whether this is the meeting where PRAC will have a final vote on legislative language. Also useful to consider deadlines for sessions. Should we be thinking of an annual meeting in terms of legislative calendar?

Mark Landauer: Key dates in connection with legislature in 2022 are -

-pre-session file bills. These get printed the first few days of session. If want that/want bill ready at start of session, leg concept must be submitted by lawmaker or professional committee staff, by Sept 23, 2022. Returned to requestor by Dec 5. Filing deadline for the legislative draft pre-session is Dec 21, 2022.

Mark L: We may want to consider having the agenda setting meeting later in the year, not during legislative session. We may have bills we want to discuss.

Todd Albert: I like October, it's after summer vacations, and suitable for

Mark L: No legislative days in October, so that's good.

Steve Suo: It is likely we will have some full meetings this year on costs legislation.

Perhaps this year closer to the end of the year for a "retreat" is appropriate.

Mark L: Agree that we need to work hard on this legislation. Not sure we'll be able to reach consensus by 9/23, but hope so. And not fully bound by that. We may need a placeholder available. May want to reserve October for meetings on legislative concepts. Not sure where we are going to land of course on the costs proposals. My hope and desire to reach full consensus.

Emily H: Maybe this year October is too early for a look back, we can have this different years.

Todd A: Shall we break this up into annual meeting y/n? and date work out annually?

Mark L: yes. Moves to have a retreat of PRAC in Oct/Nov/Dec 2022, depending on the work of the leg subcommittee. Important to reflect on work and plan on next ventures.

We haven't done a survey on response rates of agencies as well as local governments...should try to do every year, for example. Just one item important to do as PRAC. I think it's important to do an annual "retreat" to brainstorm what done well, what can do better, and other goals. How about plan for a mid-November meeting?

Pre-winter holiday...

Nov 18, Friday 1-3 PM (overriding the Leg Subcommittee) decided on "retreat" meeting.

Steve Suo: Last year there was a suggestion from Molly that we should think on a longer time horizon...can we plan for 5 years at that Nov meeting?

Mark L: In preparation for the meeting, a brief agenda planning in advance to share questions to discuss earlier with PRAC members, rather than come in cold. Put some thought into what topics to discuss. Possible subcommittee on this? For example, the

survey might be something to discuss.

Todd A: suggests that people put on thinking caps. I try to keep a running agenda, please share. Don't violate public meetings law by discussing with others.

Mark L: instead of a subcommittee...I anticipate we will meet at least 2x before November "retreat". Although those will largely be focused on legislative items, let's keep agenda for Nov meeting on each meeting's agenda. Seeking efficiency. So both let Todd know, and we'll discuss at each meeting.

1:40 AGENDA #5 - reports on subcommittees

Todd Albert/Non legislative subcommittee. Met several times, have not advanced work significantly. Initially decided to focus on creating model advice for agencies that need to update public records policy. Hoping to make soup to nuts guidance, useful engagement with requestors, records provided least costly and as fast as possible. Decided to get testimony. Have had one panel - OHSU, PPB and DEQ on personally identifiable information, which sometimes hangs up the records process. Next we need to decide next steps - if we need to take more testimony, or move ahead to create something of value for agencies and public.

Mark L: we are missing something from the agenda/bylaws subcommittee. Let's put that lower on the agenda and get to that.

Emily Harris/Legislative subcommittee report - please see video or written report for details.

Comments from other members:

Mark L - the reasoning behind asking Todd to do an initial draft: various stakeholders on the PRAC. Sought a neutral, knowledgeable person to put together a "straw" draft. Todd seemed the logical choice. Background on why he was asked, and thanks to him for agreeing to do it.

Michael Kron - thanks to Emily.

Mark L: any questions?

1:54 PM PUBLIC COMMENT PERIOD

Phone guest: Scott Forrester. Wanted to make a request for public comment after the bylaws and sunshine committee make reports.

Mark L: we will move to those agenda items and save public comment until after that. Hearing no other requests from the public for comment...

1:57 AGENDA #7 REFORMING THE BYLAWS SUBCOMMITTEE

Todd A: Bylaws committee was formed at same time as others. Scott W. volunteered to chair but his term was ending. Never able to meet. Recommending that the subcommittee be reconstituted to create bylaws.

Mark L: We have a motion for that. Second.

Discussion:

Michael Kron - good idea, but do we want to wait until new members are confirmed.

Mark L: housekeeping, don't think need to wait. Confident new members will be

confirmed.

Scott S: game to join bylaws, and open to either of the others as well, as needed.

Emily G: interested in leg and non-leg subcommittee.

Mark L: Both those interests would work. Please feel free to join.

If no objections, let's pursue the motion to create a bylaws committee.

Steve S: Some members are absent, but how do we avoid the bylaws committee as a committee of one?

Mark L: Intention is to establish the committee, not the membership. Should send out email to all PRAC members to gauge interest in serving on the committee.

Michael K: Isn't the committee actually still in existence?

Mark L: do we have a list of the people who were on the committee?

Todd A: Scott W. Molly (Stephanie appearing today on her behalf), Tony H and Sen. Thatcher.

Motion to create the bylaws committee passes.

Mark L asks Todd to send email to all members and ex-officio members.

Agreed.

Check in for public comment on the bylaws committee.

Comment: Scott Forrester - "good luck" don't see any past agenda or minutes posted.

Also don't see the Sunshine minutes posted.

Mark L: Belief meeting from October 2021 listed the individuals who agreed to serve on subcommittees.

Todd A: That is true. Question of agendas and minutes - the subcommittee never met, so no agenda and minutes.

Scott Forrester - can there be a place on the website that that is noted?

Mark L - we will note in today's record.

2:10 PM AGENDA #9 TRAINING AND MEDIATION UPDATE

Todd A.

First other news: announcement of Yufeng Lou as Deputy Public Records Advocate.

Yufeng introduces self.

Todd A: also has an intern, Maxwell Ely, is reviewing website to try to make accessible; then also training presentations. 5/hours week for the summer. It was complicated to get an intern, but now we have the system worked out.

Todd A: Begins to share slides (these are posted online as part of the materials for today's meeting.) Update on requests for assistance and trainings.

Office opened April 25, 2018. 101 requests for assistance rest of 2018

Have not had cases move to next option, which is more adversarial than shuttle that PRA does.

in 2020, boom boom boom. Stopped by Covid.

2021, more

2022, on track to surpass.

These are individual requests for assistance. However, when both sides call, they are only counted as "one" request. These don't include requestst to update policies for local govs, for example.

Trainings since last update to PRAC (mid-October 2021 through early August so far). Still affected by Covid.

Wishes to do more requestor trainings, Yufeng may take a lead. Interested particularly in community trainings with an equity lens.

Steve Suo: This is great. Can you characterize any patterns in types of disputes that turn toward office, and the outcomes?

Todd A: It truly runs gambit. But most common are fees, timelines and exemptions. Custodian won't know what kind of info they are allowed to release. A requestor has asked for "any and all." Much is managing expectations and facilitating communication. I constantly find myself recommending that requestors break down into smaller; no limit. For bodies, reminding them of their duty to segregate exempt information.

Mark L: numbers both surprising and not surprising. What are the outcomes? Can you quantify outcomes? Is that tracked and can you share? It is important as it may lead to new ideas of how to address challenges.

Remind that state and city agencies are required to engage with PRA when asked. May be worth discussing if others should be required to: Counties, Special Districts, School Districts.

Todd A: Cities have an ability to opt-in. Cannot compel. They can withdraw anytime with no finding of bad faith (can do this at state level.) Uneven system. Have found good engagement at state and local level. I tell them that you are not obliged to talk with me, but I believe I can be helpful. Some agencies have never heard of me or the office, but have had very good engagement, and more and more are calling me. Belief office is not building trust.

Not tracking outcomes for several reasons: Office has been in crisis mode from beginning, so have kept tracking at barebones. We want to make more sophisticated/in conversation with Deputy.

Mark L: criticism of lack of outcome documentation is not intent.

Todd A: additionally, may be difficult to track. Because it's just often - I gave this info, this advice...I don't always know what happens after that. Want to know more/fan of big data.

Mark L: Understanding constraints of past, and time to ramp up, do think it will be useful to know outcomes. Customer service survey maybe? Would be helpful to get an understanding of cost savings avoiding litigious outcomes. That's just one aspect. Also creating trust, knowing someone is there to help get info from their government. Hope that is part of future work plan. Critical data for PRAC and also lawmakers.

Steve Suo: Agree with need for outcomes, and recognize difficulty. Do you ask to tell what happens?

Todd A: Yes...

Steve Suo: You'd mentioned area of deadlines - specific?

Todd A: Requestor says got initial request, then nothing. Sometimes just call and check in... remind custodian of ways to communicate, as well as how to provide quicker. Generally timeline issues come from requestors.

Todd A: Office has begun budget build office; first time will be advocating for self.

Includes request for PRAC member emails.

Mark L: I have too many email addresses already. I archive all PRAC emails. ALL members are subject to public records and state archive requirements.

Todd A: we will be asking for two additional full time office members. Manager to handle day to day, including interact with public at initial level. Analyst to handle longer term projects, research, data analysis, white papers. DAS put forward request last year and was not approved. Trying again.

Steve Suo: Noting that the CT people at the Leg Subcommittee tomorrow has a Commission that is two parts, and much larger. 12 people in office like Todd's.

2:37 AGENDA # SUNSHINE COMMITTEE REPORT

Michael Kron: Sunshine Committee is a separate committee from PRAC, not a subgroup. Own webpage, meetings, subcommittees. Thus no meeting records on PRAC page. 2017 history shows why sort of overlapping bodies: Desire to have comprehensive review of exemptions, and reluctance to stick PRA with the Sunshine work. Work is not strictly restricted to exemptions, but very specific task - review all the exemptions.

Committee has been focused on that. Looking at trade secret and proprietary. Recommendation is that Leg needs to make more clarity, and do better job to protect the information on the businessess. Weird circumstances when public body gets information, but doesnt know or care level of propirartary. Public body in odd middle position.

After those issues, SC looking at family law exemptions. Lots of things related to young people taken into custody for dependency and delinquency, as well as foster care, child support, etc. We are expecting to have a recommendation on those at next meeting, June 15. Following that, exemptions on physical and mental health. Expect some obvious things, that also came up in family law - overlay of federal law and obvious privacy. That's the immediate work of the group.

In addition - moved to a co-chair structure. Working with DOJ Leg director to encourage the Leg to view the Sunshine Committee as place people who want new exemptions - need to visit the Sunshine Committee first. So legislators can get temperature of stakeholders. We were feeling daunted that Leg kept approving new exemptions as we were trying to review already enacted.

From chat: [2:38 PM] CLARK Stephanie * SOS

Sunshine Committee info here:

<https://www.doj.state.or.us/oregon-department-of-justice/public-records/public-records-reform/oregon-sunshine-committee/>

Mark L: Remembering in 2017 thought PRAC could be arbitor of leg concepts. did not work that way. Good luck.

Steve Suo: Does the leg counsel have any suggested steps to lawmakers?

Michael Kron: I mean advocates looking for exemptions come to Sunshine Committee. Not necc lawmakers. No way to enforce any part of this, but can be an informal expectation legislators have. ie if want to discuss changes to workers comp, there are groups you're expected to talk to. Hope lawmakers view us as place advocates need to

go.

Miles Cameron from LC office. We only draft bills. No comment or advice on how to go about that.

Steve Suo: Something more informal - ie during new legislature training...

Michael Kron: It's on the committee and committee leadership.

Mark L: LPRO does provide issue briefs to lawmakers. Whether or not include public records with an issue brief...may be one...often directed toward new legislators...

PUBLIC COMMENT PERIOD

Scott Forrester: Found Sunshine Committee website. Had not known existed. Minutes are up to date from Sept 2021. May want to update.

Thanks to move comments after reporting.

General suggestion: Could PRAC discuss public bodies post the most popular documents - minutes, agendas, reports, studies that decisions are made with. Why shouldn't they be automatically posted instead of taking years to get base documents.

One city takes down minutes after one year. No historical knowledge people can self-serve. Others, minutes and videos back 10, 15 years. Maybe best practices.

Email: Suggest that all PRAC members take the state email so can show best practices.

Public records law doesn't make a difference in that...Auto archiving, and requestors are more likely to get responses to request for email. Takes away the onus on individuals who are on public bodies. Pushes it to public bodies.

Mark L: Thank you, Other comments?

Hearing none -

2:54 AGENDA #10 - propose items for next meeting

Steve Suo - hopefully subcommittee proposal will take up significant time, but hopefully can discuss email. I agree that it's best practice, and maybe we can discuss making it something we all do.

Todd A: might have a lot of lead time into it - not sure if DAS is trying to make now, or only when can pay for it.

Emily H: encourages people to come to leg subcommittee meeting tomorrow.

Mark L: we will need to discuss when / if we reconvene in person. Hope that will help with difficult discussions.

Motion to adjourn made by Todd A.

Michael K second.

2:59 ADJOURNED.

