

VILLAGES AT MT. HOOD
WORK SESSION

Notes

July 23, 2009

Chair Bob Reeves called the July work session of the Board of Directors of the Villages at Mt. Hood to order at 7:03 pm at the Hoodland Fire District meeting room, 69634 E. Hwy 26, Welches, OR.

Attendance:

- ❖ Committee Members Present: Rick Applegate, Pat Buckley, Shirley Dueber, Bob Reeves, Pat Sharp, Judith Norval, Doug Saldivar
- ❖ Excused: Brigette Romeo
- ❖ Absent:
- ❖ Staff Present: Christine Roth (County Liaison), Kate Roth (Recording Secretary)

Work Session Notes:

The June Work Session Notes were presented for review. Shirley Dueber made the motion to approve the notes. Judith Norval seconded the motion. Vote: approved, 7 – yes, 0 – no, 0 – abstain.

Board Training: Public Meeting Law & Public Records – Dan Chandler

Bob Reeves introduced Dan Chandler, from Clackamas County's County Counsel office. Dan Chandler came to the Work Session to speak to the Board about public meeting law and public records.

Dan Chandler began by introducing himself and telling the Board that he planned to address public meetings and public records law as well as answer questions to the best of his knowledge. He also said that he would take questions and respond later if need be.

- ❖ Meetings Law – presentation by Dan Chandler from County Counsel

Dan Chandler began by providing a brief history on meetings law. Meetings law arose during the early 1970s in the United States, and by the end of the 1970s all the states and Washington D.C. had some form of a meeting law. The intent of the laws was to keep the public informed about meetings and decisions. It was also created to ensure open decision-making.

- At this point he passed out a documents called "A Quick Reference Guide to Oregon's Public Meetings Law" created by the Oregon Attorney General's Office

and Open Oregon, and the “A Quick Reference Guide to Oregon’s Public Records Law” created by Open Oregon and the Oregon Attorney General’s Office.

- The definition of a public meeting and a public body was presented.

Dan Chandler continued and stated that conference calls, video chats, and chat rooms are public meetings when there is a quorum of Board members participating. Also, Public meetings must be held in a building that is ADA accessible and within the jurisdiction of the organization. Public meetings law does not require participation. The Presiding officer has the authority to control and/or limit testimony. The smoking ban applies to meetings. Notice of meetings is required and should include date, place and time.

- An emergency meeting can only be held in an emergency and the emergency must be stated in the minutes of the meeting. An emergency meeting can take place with less than twenty-four hours notice.
- A special meeting must have at least twenty-four hours notice, but does not require normal notice. A press release is included to interested parties.
- When a vote is taken at any meeting, it must be recorded. Also, secret ballots are not allowed.
- Minutes are to be distributed at a reasonable time. The minutes should include people, motions, proposals, results, substance and any documents discussed. There is potential concern in the legal area over whether personal digital assistants (PDAs) and website mentions and if they are to be in minutes and how to address references. Also, minutes are to be preserved for a reasonable time, generally at least one year.
- If public meetings law is violated decisions can be voided. However, the body can reinstate a decision at a later meeting while following proper procedure.

❖ Meetings Law – Question and Answer

- Pat Sharp asked about social events where Board members attend but do not discuss Board business. Dan Chandler said that conferences are exempt. He also said that if there is more than a quorum of members, and then there should not be any discussing or gathering of information towards a decision.
- Bob Reeves asked if there is a quorum of Board members at any event and the Board does not sit together, is that better. Dan Chandler said that it is a good idea, though the concern is with the substance of any discussion.
- Rick Applegate asked if there are five people who are talking in a group and asking questions, how can that affect requirements. Dan Chandler said that the people should be careful and that could potentially cross the line. Rick was also concerned about perception and comments that were made in jest. Dan Chandler said that awareness is important and that Board members should be aware of the perceptions.

- Pat Sharp asked about groups (including groups of Board members) talking but not making decisions or persuading. Dan Chandler said that it could happen, but usually people sit separately.
- Doug Saldivar asked about e-mails to the whole Board. Dan Chandler said that emails to the whole Board are not a public meeting unless there is discussion towards a decision. Partly because of the time element of emails there can be concern over more than a quorum talking. Dan did say that a spread out response from Board members is often acceptable, and he suggested that email lists be kept to less than a quorum when there are e-mail conversations between Board members.
- Bob Reeves asked about email discussion concerning the decision of a meeting date. Dan Chandler said that governing bodies do not need to hold a vote.
- Rick Applegate and other Board members asked about placing items on the agenda and what can be done if a Board member is unhappy about the Chair deciding not to place an item on the agenda. Dan Chandler said that he was unsure about what could be done about an item not placed on the agenda, and suggested consulting Robert's Rules. Dan added that a public meeting issue could arise if a person requests a vote on adding an agenda item.
- Doug Saldivar asked if there were any problems with sending an e-letter to everyone. Dan Chandler said he thought there would not be a problem. Doug replied by asking if facts, information, and individual opinions were okay. Dan Chandler said that it would be an individual response.
- Dan Chandler also said that standards are not always clear on public meetings law and that advisory groups may be part of the public records law.

❖ Public Records Law – Presentation by Dan Chandler

Dan Chandler presented an overview on public records law. He began by providing a brief history of the law. He also said that Oregon has more exemptions than most states. Also, any person can examine any and all records, and the person's motives and need are irrelevant. In Oregon the Public Records Act is what governs the public records laws, and the Hamlets and Villages are subject to the act.

The definition of a public record is any writing relating to conduct of a meeting. It does not matter who creates the record.

Notes and phone logs are disclosable, as are records of email. There is no duty to create a public record. Dan Chandler's advice was that people not write or say anything that he or she would not want to see on the front page of a newspaper.

- ❖ Bob Reeves said that since Clackamas County is the keeper of records, documents would be turned over to Christine Roth.
- ❖ Shirley Dueber asked if notes from committee meetings would be a record. Dan Chandler said that would be public records law.
- ❖ Shirley Dueber also asked if committee notes are to be turned in. Dan Chandler said that if they are written then they should be submitted. Shirley Dueber also inquired about

how notes taken for a report to the Board are affected, and Dan said that if they are taken, then the notes are public record.

- ❖ Dan Chandler said that notes are writing, but they can be a record or minutes if they are called that.
- ❖ Rick Applegate asked about page 6 of the Public Meetings Law, and the definition of a “governing body” and asked about a subcommittee meeting and if that was a public meeting. Pat Sharp added that the committees do make recommendations. Dan Chandler said that the subcommittees meetings are probably public meetings.
- ❖ Doug Saldivar asked about the example of the school board in the Public Meeting Law handout and how that was different from a Mountain Express Line meeting.
- ❖ There were questions about how a subcommittee would function if a quorum of the governing body were also a quorum of the committee.
- ❖ Bob Reeves provided an overview of what the subcommittees do, which is they may or may not have regular meetings, need 24 hours notice, and do most of the work.
- ❖ Rick Applegate said that organizing committee meetings and the committees could solve some of the problems. He suggested that the Board include on agendas the caveat that committee meetings’ notice and dates are posted online.
- ❖ Shirley Dueber suggested adding meeting dates to the agenda.
- ❖ Judith Norval asked about committee meetings being special meetings. Dan Chandler said that they are not special meetings if it is a regularly scheduled committee.
- ❖ Pat Sharp asked about gathering information, reporting to the Board and overseeing the work plan. She also said that with the sustainability committee there had been some spontaneous meetings. Dan Chandler said that it is a question of how do you schedule and organize meetings so that everything works.
- ❖ Dan Chandler asked Christine Roth if there had been any Hamlets that had the issue of committee meetings being public meetings, and she said no, their committee meetings are noticed.
- ❖ Rick Applegate said that the intent was to focus on transparency and operating openly. Doug Saldivar replied that transparency should focus on decisions and not on the information gathering.
- ❖ Pat Sharp and Rick Applegate asked about having a meeting at a business and if that was acceptable. Pat Sharp said that in a previous organization it was not allowed. Dan Chandler said that the meeting must be open to the public and the distinction is in if people have to pay to attend.

- ❖ Dan Chandler continued the education on public records by talking about exemptions. There are public records exemptions (conditional exemptions) for internal advisory committees that are preliminary to action or policy. For an exemption there is also a need to request one thing rather than for everything. He said that drafts are not exempt. Personal privacy exemptions are fuzzy because it focuses on an unreasonable intrusion of privacy and that is evaluated on a case-by-case basis. Personal privacy does not protect address and phone numbers. He also detailed how information submitted with the expectation of privacy is subject to five conditions.

- ❖ Dan Chandler next talked about responding to public records requests. An organization can control the viewing of the documents. The organization can charge fees for expenses

(employee and his or her benefits), searching for documents, legal expenses, and paper. There is a process to get to records in most organizations. The organization can give a cost estimate at the beginning, as the County does, so a person can be aware of the cost.

- ❖ Judith Norval had previously submitted a question to Dan Chandler that asked: can you accept a donated service and provide an honorarium. Dan Chandler said no.
 - Judith Norval asked about hiring a web designer, and can the Villages go with one person or do they have to conduct an open bid process? Dan Chandler said that he would have to check the County's procurement guidelines, but a normal procurement process should happen.
 - Bob Reeves asked if the Villages would have to go through the County for any contracting for web design. Dan Chandler said yes.
 - Rick Applegate said there could be a problem if multiple people in the area are interested.
- ❖ Pat Sharp asked a question beginning with what happens if a Board member takes a stand as an individual, and she did not think it was appropriate for a Board member to announce their decision and that he or she should keep an open mind to discussion. Dan Chandler gave an example involving a city councilor, and said that generally a councilor must be impartial in judgment when there is a judicial decision.
- ❖ Pat Sharp said that Board members trying to persuade the public to persuade other Board members are a problem for her.
- ❖ Doug Saldivar thought that it was the nature of a Board to be concerned with persuading others.
- ❖ Rick Applegate thought that it was an individual political model with a constituency, and that some people are trying to take a lead.
- ❖ Bob Reeves said that individuals can speak, but the problem is how to handle a person speaking for the Board versus as an individual.
- ❖ Dan Chandler clarified the questions he would answer for the Board before wrapping up his session. He also said he would provide information on the County's bid process. Shirley Dueber suggested publicizing the bid in the Sandy Post, the Mountain Times; and Pat Sharp suggested describing what is needed.

Communication's Committee Report:

- ❖ Rick Applegate and Doug Saldivar had a meeting and produced an e-mail that they distributed to Board members that included their initial goals for a website. Their initial goals for a website were to: publish minutes, publish agendas, have a searchable tool, have a calendar of events and meetings, a place to subscribe to e-mails, and a place to contact Board members.
- ❖ There was a debate over Board members having email on the new website. There would not be a county email address.
- ❖ Shirley Dueber was concerned over who would have access to the information
- ❖ Doug Saldivar said that there is a question over who would be the website administrator and there would have to be an agreement that included confidentiality.
- ❖ Rick Applegate suggested the Board assign an administrator. He also thought that the creation and design of the website would be simple.

- ❖ Bob Reeves asked who would maintain the website and Doug Saldivar suggested the Board choose a person and have the person sign a contract.
- ❖ Doug Saldivar said that the administrator may or may not have access to e-mail.
- ❖ Pat Sharp said that she does not want an email address on the website and would be happy to talk to people on the phone.
- ❖ Shirley Dueber thought that emails should go to the entire Board and not to individuals.
- ❖ Christine Roth said that emails would be public record.
- ❖ Rick Applegate said that each person should be allowed to choose email or not.
- ❖ Doug Saldivar said that if there was an email to everyone, who would answer emails?
- ❖ Judith Norval asked who would contact the Board as a group?
- ❖ Pat Sharp said that people could say anything via email and that could be a problem.
- ❖ Rick Applegate said that people come to him and would like to have a direction to point people in when they want information or a way to contact the Board. He also said that because he has a business more people approach him.
- ❖ Doug Saldivar said that there is a need to discover how many people want to communicate with the Board.

The Board consensus was to postpone a decision until the next Board meeting.

- ❖ Bob Reeves suggested developing criteria for who you want to do the work and what is to be done for the website, and for the Request for Proposals (RFP).
- ❖ Rick Applegate suggested developing scoring criteria for the RFP.
- ❖ Bob Reeves suggested the Board consider if the Villages would use the County and/or their own website when one is running. He also added that the Villages should make sure that their website is easily found.

Adjournment:

Chair Bob Reeves adjourned the meeting at 9:06 pm.

Respectfully submitted,

Kate Roth
Recording Secretary