VIA ELECTRONIC DELIVERY

February 11, 2020

Metro Council
Metro Attorney
Metro Auditor
600 NE Grand Ave.
Portland, OR 97232

Re: Oregon Public Meetings Laws related to meetings of the Natural Areas Program Performance Oversight Committee

Dear President Peterson, Deputy President González, Metro Councilors, Ms. MacLaren, and Mr. Evans:

I have some concerns that Metro may not be satisfying its obligations to provide public notice of its meetings subject to Oregon’s Public Meetings Law. Specifically, my concerns relate to the last two meetings of the Natural Areas Program Performance Oversight Committee, on September 24, 2019, and on February 4, 2020.

OVERSIGHT COMMITTEE IS SUBJECT TO OREGON PUBLIC MEETINGS LAW

The Oversight Committee is a governing body of a policy body and is therefore subject to Oregon’s Public Meetings Law. The Oversight Committee (a governing body) has authority to make recommendations to Metro Council (a public body) on policy or administration, as demonstrated in Metro Ordinance 07-1155A, establishing the Oversight Committee (emphasis added):
Periodic and Authority. The purpose and authority of the Natural Areas Program Performance Oversight Committee is to annually review whether the program is meeting the goals and objectives established for the program by the Metro Council (“program performance”). The Committee shall annually report to the Metro Council regarding such program performance, **which report shall provide the Committee’s recommendations** to improve such performance, if any.

The minutes from the first meeting of the Oversight Committee on June 21, 2007, confirms the Oversight Committee’s authority to make recommendations to Metro Council (emphasis added):

Metro Council President David Bragdon thanked everyone for agreeing to serve on the committee and recognized committee members’ wide diversity of backgrounds and skills. The **Metro Council is looking forward to the committee’s advice** on performance measures—not necessarily number of acres purchased, dollars spent or number of transactions, but **how Metro and the Natural Areas staff do business**—making sure we are sustaining the public’s trust and that they are getting the best value for their money spent.

Oregon Public Meetings Law requires that public notice be given of the time and place of meetings. The Law requires the public notice must also “include a list of the principal subjects anticipated to be considered at the meeting.” The list of subjects should be specific enough to permit members of the public to recognize the matters in which they are interested.

The Public Meetings Law requires written, sound, video or digital recording of minutes for all meetings and that minutes must be made available within a “reasonable time” after each meeting, but does not specify the time. It is generally recognized that this time frame should not exceed three weeks.

The Public Meetings Law specifies members of a governing body may be liable for attorney and court costs both as individuals or as members of a group if found in willful violation of the Law.
FEBRUARY 4, 2020, MEETING OF OVERSIGHT COMMITTEE:  
FAILURE TO INFORM THE PUBLIC OF THE MEETING

At the February 4, 2020, Metro Council work session, Councilor Sam Chase indicated that there had been a meeting of the Oversight Committee earlier that day, as reflected in the audio from the work session:

I want to take the time to share a little bit about the Oversight Committee which the timing is nice because we met this morning. And so that bond Oversight Committee met and, in fact, discussed and one of the topics which I was not really going to address here, we really did review the admin costs and there’s really no question that those are going to come in at under 10 percent over the life of the bond.

From Councilor Chase’s comments, it seems the Oversight Committee discussed several matters, including a January 23, 2020, letter and testimony I submitted to Metro Council regarding the Oversight Committee and financial information published in the Parks and Nature Annual Report.

There is no record of a public notice of the February 4, 2020, meeting of the Oversight Committee. Exhibit 1 is a screen capture of Metro’s news archive of “Parks and nature” news showing that there was no notice the public meeting. Exhibit 2 is a printout from the Daily Journal of Commerce’s list of public meeting announcements, showing there was no notice of the public meeting. A screen capture of Metro’s calendar shows no notice of the public meeting.
SEPTEMBER 24, 2019, OVERSIGHT COMMITTEE MEETING:
FAILURE TO INFORM THE PUBLIC OF THE MEETING; POSSIBLE
BACKDATING OF MEETING ANNOUNCEMENT; FAILURE TO MAKE MINUTES
AVAILABLE WITHIN A REASONABLE TIME

Based on meeting materials recently published on Metro’s website for the Oversight Committee, it appears the Oversight Committee had a meeting on September 24, 2019. I have been following the Committee’s website regularly since June 2019, and do not recall seeing public notice prior to the September 24, 2019, meeting.

When the website was archived by Archive.org on August 25, 2019, there was no announcement of the upcoming September 24, 2019 meeting.


When the website was archived by Archive.org on December 6, 2019, the minutes had not been posted and there was no indication that Committee meeting was held on September 24, 2019:


Exhibit 3 is a screen capture of Metro’s news archive of “Parks and nature” news showing that there was no notice the public meeting in the month leading up to the meeting.

Exhibit 4 is a printout of Metro’s meetings calendar for September 2019. The printout of the calendar shows a 9:00 AM meeting of the Oversight Committee on September 24, 2019. Clicking on the link opens a page providing the time and place of the meeting. The page, however, does not include a list of the principal subjects anticipated to be considered at the meeting, in violation of Oregon Public Meetings Law.

Exhibit 5 is a printout of the HTML source code for the page. The source code indicates the page was created on January 24, 2020, one day after my January 23, 2020, testimony to Metro Council regarding the Oversight Committee and the Parks and Nature Annual Report:

To summarize the timeline:

- The Oversight Committee held a public meeting on September 24, 2019. There appears to have been no advance public notice of the meeting. As late as December 6, 2019, there was no record of the meeting having occurred on the Oversight Committee’s webpage.

- On January 23, 2020, I submitted a letter and presented testimony to Metro Council criticizing the infrequency of the Oversight Committee’s meetings. Specifically, I noted that the last time the Committee met was in April 5, 2019, where only 2 of the 12 Committee member were in attendance.

- A page on Metro’s website announcing the September 24, 2019, Oversight Committee meeting has a “published” date of January 24, 2020, one day after my testimony to Metro Council.

Metadata in the PDF of the minutes from the September 24, 2019, meeting indicate the minutes were prepared by Marybeth Haliski on September 25, 2019. However, as noted above, on December 6, 2019, the minutes had not been made available on the Oversight Committee’s webpage. This appears to be in violation of Oregon’s Public Meetings Law specifying that minutes must be made available within a “reasonable time” after each meeting.

In addressing Metro Parks and Nature Director Jonathan Blasher, on February 4, 2020, Metro Councilor Bob Stacey referred to a memo from Mr. Blasher regarding my letter and testimony. I have requested a copy of the memo from Councilor Stacey and Council President’s chief of staff, Paul Slyman, but have not yet received it.
At the Council meeting, Councilor Stacey indicated the memo led him to conclude that my observations about the Oversight Committee and the Parks and Nature Annual Report were “startling accusations” consisting of “tinny” “potshots” providing “no meaningful critique.” He also inferred Cascade Policy Institute’s work is irresponsible, as reflected in the audio from the meeting:

I wanted to take this opportunity thank Mr. Blasher for producing your January 28th follow-up memo about testimony the Council received on the 21st [sic] from the Cascade Policy Institute. Mr. Fruits from Cascade Policy Institute made some **startling accusations** about both our Oversight Committee and our own work. Your—I asked for a response because **it sounded a little tinny** to me. I come from a background where criticism and scrutiny of government action was part of my mission—mission of the organization I worked for—and I appreciate and acknowledge the role that Cascade Policy Institute plays—**when it performs its work responsibly**. I use the analogy of how the political spectrum is sometimes described in directions but it’s also described in colors and in terms of keeping government accountable I think there’s a place where the ultraviolet meets the infrared and I thought we had that in common with Cascade Policy Institute. But, as you show, that was a series of **potshots taken out of context** with **no meaningful critique** of how we do our business and I’m grateful to you for making that clear on the record. Thank you.

Cascade Policy Institute has been following Metro’s “Parks and Nature” program since its inception. After months of in-depth research, in October 2019, Cascade published a comprehensive review of the program. This is a “meaningful critique” and to date no one—including Metro Council, Metro staff, or advocates of the program—has questioned the accuracy of the information in the report.


As noted above, members of a governing body may be liable for attorney and court costs both as individuals or as members of a group if found in willful violation of the Public Meetings Law. To reduce the risk of such consequences, I urge Metro Council to
perform a thorough review of Oregon’s Public Meetings Law and take whatever actions necessary to ensure Metro abide by both the letter and the spirit of the Law.

Respectfully submitted,

Eric Fruits, Ph.D.
Enter Our Big Backyard nature photography contest
Feb. 3, 2020 2:59 p.m.

Win an annual parking pass, a full-day picnic reservation at Graham Oaks or Scouters Mountain nature park, a tennis court session, or a round of golf for four people including cart at Glendoveer Golf and Tennis Center.

Read the winter 2020 issue of Our Big Backyard
Jan. 22, 2020 8:23 p.m.

Learn how Indigenous community members led a prescribed burn at Quamash Prairie Natural Area and worked to reconnect land, culture and habitat. Also in the winter 2020 issue of Our Big Backyard, you can find out about the latest parks and nature news and events and explore the Glendoveer Field Guide.

Restoring fire: prescribed burn at Quamash Prairie reconnects land, culture and habitat
By Cory Eldridge | Jan. 2, 2020 10:30 a.m.

Early last fall, a wildland fire team from the Confederated Tribes of Grand Ronde led a prescribed burn of Quamash Prairie Natural Area west of Tigard.

Free parking days at Metro parks 2020
Dec. 23, 2019 3:40 p.m.

Enjoy free parking at Oxbow and Blue Lake regional parks, Broughton Beach, M. James Gleason Memorial Boat Ramp and Chinook Landing Marine Park on 17 days in 2020. Parking at all other Metro parks and boat ramps is free year-round.
# Government Search Results

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Equity Advisory Committee provides diverse views on Metro’s parks and nature policies

By Cristle Jose  |  Sept. 18, 2019 5:17 p.m.

Since January, Haron and 14 other people representing diverse groups have been sharing their input as part of Metro’s new Parks and Nature Equity Advisory Committee. Metro staff play a supporting role while committee members provide feedback, adding a community-led racial equity lens to shape the department’s planning processes, policy formation, and outcomes on projects and system-wide efforts.

Portland woman gives birth to breech baby at Blue Lake Regional Park

By Cristle Jose  |  Aug. 28, 2019 1:45 p.m.

The Southeast Portland woman and her family frequent the park every other week, and this particular visit came a week before the mom of two was scheduled to give birth to her third child via cesarean section.

Sista Sistah to highlight health and nature in holistic healing event

By Cristle Jose  |  Aug. 21, 2019 11 a.m.

The event will highlight communities of color, and numerous partners who are looking to connect with communities of color will offer yoga, sound vibration therapy, kmetic reiki and more.

Why are so many trees dying?

By Kate Hollaran  |  Aug. 15, 2019 4:34 p.m.

Hot, dry summers are killing trees across greater Portland. It’s a local effect of climate change.

Enter Our Big Backyard nature photography contest

Aug. 8, 2019 10:55 a.m.

Win an annual parks pass, a tennis court session, or a round of golf for four people including cart at Glendoveer Golf and Tennis Center.
Home > Calendar

Calendar

Month View | List View

September 2019

Type of Event

Meetings

Accessibility Services

- Any -

Filter Calendar

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SERVICES OF METRO

- Oregon Zoo
- Oregon Convention Center
- Portland Expo Center
- Portland'5 Centers for the Arts

OPPORTUNITIES

- Jobs
- Contracts
- Volunteering
- Grants
- Franchising and licensing

Whether your roots in the region run generations deep or you moved to Oregon last week, you have your own reasons for loving this place – and Metro wants to keep it that way.
Data Resource Center
Garbage and recycling facilities
Metro cemeteries

ACCESS
Know your rights
Language assistance
Feedback and questions
Metro Accountability Hotline
Request public records
Directions

LEADERSHIP
Metro Council
Metro Auditor
MERC Committees
Who's my councilor?

CONTACT METRO
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way. Help shape the future of the greater Portland region and discover tools, services and places that make life better today.
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The committee is charged with providing the Metro Council and the citizens of the region an independent, outside review of the program in order to help Metro achieve the best results for clean water, fish and wildlife and future generations.
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<dt class="nav nav-tab-trigger" data-nav_menu="home/pest-control/fruit-flies" data-open="false">
Fruit flies</dt>
<dd class="close nav nav-tab-trigger">
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<dt class="nav nav-tab-trigger" data-nav_menu="home/pest-control/mice-and-rats" data-open="false">
Mice and rats</dt>
<dd class="close nav nav-tab-trigger">
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<dt class="nav nav-tab-trigger" data-nav_menu="home/pest-control/moths" data-open="false">
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<dt class="nav nav-tab-trigger" data-nav_menu="home/pest-control/spiders" data-open="false">
Spiders</dt>
<dd class="close nav nav-tab-trigger">
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<li class="leaf menu-mlid-1267"><a href="/tools-living/healthy-home/green-cleaning/hand-cleaner">Hand cleaner</a></li>
<li class="leaf menu-mlid-1270"><a href="/tools-living/healthy-home/green-cleaning/laundry-bleach">Laundry bleach</a></li>
<li class="leaf menu-mlid-1269"><a href="/tools-living/healthy-home/green-cleaning/laundry-cleaners">Laundry cleaners</a></li>
<li class="leaf menu-mlid-1288"><a href="/tools-living/healthy-home/green-cleaning/leather-cleaner">Leather cleaner</a></li>
<li class="leaf menu-mlid-1280"><a href="/tools-living/healthy-home/green-cleaning/oven-cleaners">Oven cleaners</a></li>
<li class="leaf menu-mlid-1277"><a href="/tools-living/healthy-home/green-cleaning/scouring-power-and-paste">Scouring powder and paste</a></li>
<li class="leaf menu-mlid-1283"><a href="/tools-living/healthy-home/green-cleaning/silver-cleaners">Silver cleaners</a></li>
<li class="leaf menu-mlid-1262"><a href="/tools-living/healthy-home/green-cleaning/spot-and-stain-removers">Spot and stain removers</a></li>
<li class="leaf menu-mlid-1271"><a href="/tools-living/healthy-home/green-cleaning/toilet-bowl-cleaners">Toilet bowl cleaners</a></li>
<li class="leaf menu-mlid-1272"><a href="/tools-living/healthy-home/green-cleaning/tub-and-tile-cleaner">Tub and tile cleaner</a></li>
<li class="leaf menu-mlid-1265"><a href="/tools-living/healthy-home/green-cleaning/urine-stain-removers">Urine stain removers</a></li>
<li class="leaf menu-mlid-1290"><a href="/tools-living/healthy-home/green-cleaning/wall-cleaner">Wall cleaner</a></li>
<li class="leaf menu-mlid-1289"><a href="/tools-living/healthy-home/green-cleaning/wallpaper-cleaner">Wallpaper cleaner</a></li>
<li class="leaf menu-mlid-1263"><a href="/tools-living/healthy-home/green-cleaning/wet-spotter">Wet spotter</a></li>
<li class="leaf menu-mlid-1281"><a href="/tools-living/healthy-home/green-cleaning/windshield-wiper-fluid">Windshield wiper fluid</a></li>
<li class="leaf menu-mlid-1286"><a href="/tools-living/healthy-home/green-cleaning/wood-cleaners">Wood cleaners</a></li>
<li class="leaf menu-mlid-1287"><a href="/tools-living/healthy-home/green-cleaning/wood-furniture-polish">Wood furniture polish</a></li>
</ul>
Fingernail polish and remover

Flea control

Gasoline, kerosene and diesel fuel

Hair products

Hand cleaners, mechanic or painter

Lighter fluid, charcoal

Lubricating oils

Lubricating

Medicines, unwanted or expired drugs

Mercury- and PCB-containing items

Moss killer

Mothballs and moth crystals

Motor oil and oil filters

Motor oil

Oven cleaners

Paint and clear wood finish

Paint strippers or paint scrapings

Paint thinners

Paint, water-based

Paint, water-based

Pesticides

Polishes and waxes, wood furniture and floors

Polishes, cleaners or waxes, automotive

Polishes, cleaners or waxes, automotive

Polishes, shoe

Pool or spa chemicals

Septic tank cleaners

Sharps or medical waste

Smoke destroyers

Soot remover or creosote destroyer

Stain and spot removers

Stain and spot removers

Windshield wiper solution

Wood preservatives
<li class="leaf menu-mid-1299"><a href="/tools-living/yard-and-garden/lawn/water">Water</a></li>
<li class="leaf menu-mid-1300"><a href="/tools-living/yard-and-garden/lawn/weed">Weed</a></li>
<li class="leaf menu-mid-3348"><a href="/tools-living/yard-and-garden/plants/plants">Plants</a></li>
<li class="leaf menu-mid-4207"><a href="/tools-living/yard-and-garden/plants/plant-shrub">Plant a shrub</a></li>
<li class="leaf menu-mid-3358"><a href="/tools-living/yard-and-garden/plants/fall-and-winter-gardening">Fall and winter gardening</a></li>
<li class="leaf menu-mid-1293"><a href="/tools-living/yard-and-garden/plants/growing-roses">Growing roses</a></li>
<li class="leaf menu-mid-1294"><a href="/tools-living/yard-and-garden/plants/getting-started-edibles">Getting started with edibles</a></li>
<li class="leaf menu-mid-1333"><a href="/tools-living/yard-and-garden/backyard-habitat">Backyard habitat</a></li>
<li class="leaf menu-mid-1334"><a href="/tools-living/yard-and-garden/backyard-habitat/protecting-songbirds">Protecting songbirds</a></li>
<li class="expanded menu-mid-1309"><a href="/tools-living/yard-and-garden/composting">Composting</a></li>
<li class="expanded menu-mid-1310"><a href="/tools-living/yard-and-garden/composting/composting-methods">Composting methods</a></li>
<li class="expanded menu-mid-1312"><a href="/tools-living/yard-and-garden/composting/compost-trouble-shooting">Compost trouble-shooting</a></li>
<li class="expanded menu-mid-4192"><a href="/tools-living/yard-and-garden/composting/build-compost-bin">Build a compost bin</a></li>
<li class="expanded menu-mid-1313"><a href="/tools-living/yard-and-garden/composting/buy-composter">Buy a composter</a></li>
<li class="expanded menu-mid-1314"><a href="/tools-living/yard-and-garden/composting/worm-composting">Worm composting</a></li>
<li class="expanded menu-mid-1315"><a href="/tools-living/yard-and-garden/composting/worm-bin-trouble-shooting">Worm bin trouble-shooting</a></li>
<li class="expanded menu-mid-1320"><a href="/tools-living/garden-pledge">Garden pledge</a></li>
<li class="expanded menu-mid-2242"><a href="/tools-living/garden-problems/make-sure-your-garden-product-safe">Grow Smart, Grow Safe</a></li>
<li class="expanded menu-mid-793"><a href="/tools-living/living-getting-around">Getting around</a></li>
<li class="expanded menu-mid-1330"><a href="/tools-living/living/making-your-home-energy-efficient">Making your home energy-efficient</a></li>

For working<br>

Tools for working<br></li>

Guide to small business hazardous waste disposal<br></li>

Exhibit 5
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for solid waste facilities</a></li>

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resources/nature-grants/capital-grants/restoration">Habitat restoration</a></li>

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Exhibit 5

2/11/2020

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    <h2><a href="/calendar">Calendar</a></h2>
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  <input type="hidden" name="form_field_date" value="2019-09-24T14:00:00-07:00" />
  <ul class="breadcrumb"><li><a href="/">Home</a></li><li>Natural Areas Program Performance Oversight Committee meeting</li></ul>
</aside>

<article class="node node-metro-event" about="/events/natural-areas-program-performance-oversight-committee-meeting/2019-09-24" typeof="sioc:Item foaf:Document">
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    <div class="col-xs-12 col-sm-9 col-md-9 col-lg-9">
      <div class="form-inline">
        <h1>Natural Areas Program Performance Oversight Committee meeting</h1>
      </div>
    </div>
  </div>
</article>
Composed of citizens from throughout the region, the committee includes members from the finance, auditing, accounting, real estate, banking, grant making and law fields. The committee is charged with providing the Metro Council and the citizens of the region an independent, outside review of the program in order to help Metro achieve the best results for clean water, fish and wildlife and future generations.

The Sept. 24 meeting will include a tour of Killin Wetlands Nature Park. Following the committee meeting at 9 a.m., the tour will depart Metro Regional Center at 10:15 and return at 2 p.m. Box lunches will be provided.

This event is wheelchair accessible. Request an interpreter or other accommodation.

Contact: Marybeth Haliski
Phone: (503) 797-1741
Email: mhaliski@oregonmetro.gov

Save to my calendar: 

Directions:

https://maps.google.com/maps?daddr=600+NE+Grand+Ave,+Portland