



URBAN REWAL ADVISORY BOARD MEMBERS

Name	Stakeholder Interest
Dale VanValkenburg	Developer
Robin Vora	UGB Steering committee
Bart Bowen	Multi-modal transportation
Elise Jones	Business owner
Tim Page	Resident
Dennis Pahlisch	Builder
Adam Bledsoe	Financing professional
Whitney Swander	Social Service organization
Michelle Rhoads	Transit
Craig Davis	At-large community member
Jim Landin	At-large community member
Sonja Porter	At-large community member
Steve Porter	At-large community member

Alternates

Tim Neville

Zak Sundsten

Ex-Officio appointees from the following Taxing Districts:

Sarah Bodo	Bend Parks and Recreation District
Todd Dunkelberg	Library District
Sharon Smith	Bend La-Pine School District
Ray Miao	Bend Rural Fire District
TBD	Central Oregon Community College

MEETING AGENDA



CITY OF BEND
CORE AREA PROJECT

URBAN RENEWAL ADVISORY BOARD

MEETING DATE: February 12, 2019

MEETING TIME: 12:00 PM to 2:00 PM

LOCATION: Board Room, Hawthorne Station - 334 NE Hawthorne Avenue

STAFF LIAISONS: Allison Platt, Senior Planner
Matt Stuart, Urban Renewal Project Manager

1. **Roll Call:** Dale Van Valkenburg, Robin Vora, Bart Bowen, Elise Jones, Tim Page, Dennis Pahlisch, Adam Bledsoe, Whitney Swander, Michelle Rhoads, Craig Davis, Jim Landin, Sonja Porter, Steve Porter

2. **Meeting Specific Agenda Items (90 min)**

- a. Welcome, Introductions (10 min)
 - i. Staff
 - ii. Board Members (Background/Occupation)
- b. Overview of the Urban Renewal Advisory Board (15 min)
 - i. History/Creation/Purpose
 - ii. Project Overview
- c. Advisory Board Member Comment (30 min)
 - i. Defining Success
 - ii. Desired Outcomes
- d. Chair and Vice Chair (20 min)
 - i. Expectations
 - ii. Nominations
 - iii. Election/Appointment
- e. Overview of Legal Matters related to a Governing Body (15 min)
 - i. Conflict of Interest Policy
 - ii. Public Meetings Law

3. **Public Comment (10 min)**

4. **Next steps (10 min)**

- a. Meet with Chair & Vice Chair Elect to review Future Meeting/Agenda items - TBD
- b. Next URAB meeting is tentatively scheduled for April 2, 2019. Time and Location TBD
- c. Adjourn

MEETING AGENDA



CITY OF BEND
CORE AREA PROJECT



Accessible Meeting Information

This meeting/event location is accessible. Sign and other language interpreter service, assistive listening devices, materials in alternate format such as Braille, large print, electronic formats, language translations or any other accommodations are available upon advance request at no cost. Please contact the Kathy Montgomery no later than 24 hours in advance of the meeting at kmontgomery@bendoregon.gov or 541-330-4010. Providing at least 2 days-notice prior to the event will help ensure availability.

For Questions or Comments on the agenda, contact: Allison Platt at aplatt@bendoregon.gov or (541) 322-6394 or Matt Stuart at (541) 323-5992 or mstuart@bendoregon.gov.

Project Overview



CITY OF BEND
CORE AREA PROJECT

Purpose

The purpose of the Core Area Project is to create a common vision and implementation plan for Bend’s core areas by combining economic development tools, incentives, and programs such as Urban Renewal. This project will build upon the land use planning from the 2016 Urban Growth Boundary (UGB) adoption. It will explore opportunities to incentivize and encourage development within the four core opportunity areas identified in the UGB process (KorPine, Bend Central District, East Downtown, and Inner Highway 20/Greenwood) in addition to new sub areas (Division and Wilson). The project will identify needed infrastructure (water, sewer, stormwater, and transportation) as well as how and when to fund these needed improvements. In addition it will consider other programs, tools, and incentives to achieve the community’s vision. The project is broken into two phases:

Phase 1 - Core Area Implementation Strategy: This phase will develop the vision, urban design framework, and implementation framework including an Urban Renewal feasibility analysis.

Phase 2 is contingent upon the successful completion of Phase 1, including direction from Bend’s Urban Renewal Advisory Board (URAB) and the Bend Urban Renewal Agency (BURA) that a Core Area Urban Renewal District will feasibly implement the goals of the district.

Phase 2 - Urban Renewal Plan and Report: This phase will develop the adoptable urban renewal plan and report, with associated ordinances, in compliance with State law.

Public Involvement Plan

A brief description of public involvement is described below. A more detailed public involvement plan will be available at the 2nd URAB meeting. The plan will include:

- URAB Meetings (8 meetings)
- Two (2) large community workshops
- Two (2) rounds of outreach meetings to each of the subareas
- Interviews with taxing districts
- Check-ins with Planning Commission and City Council/BURA

Preliminary Committee Meeting Topics

- Orientation, committee guidelines, project overview, background information
- Existing conditions and plans, urban design analysis, public involvement plan, development feasibility analysis
- Conceptual urban design framework, initial list of projects and programs, visioning discussion, Urban Renewal boundary discussion, Workshop 1 Plan, implementation strategy concepts
- Workshop 1 results, updated urban design framework, vision and goals, project and program list, initial Tax Increment Financing (TIF) projections, implementation framework
- Projects and programs, costs, prioritization, Workshop 2 plan, draft implementation strategies
- Workshop 2 results, refined urban design sketches, updated project costs and prioritization, discussion of additional funding sources, draft urban renewal boundary
- Draft Core Area Action Plan
- Final Core Area Action Plan and preliminary Urban Renewal Plan and Report

Note: Meeting topics and sequence are subject to change.



Phase 1 Deliverables

Applicable Plans and Programs

A summary of applicable plans, programs, projects and policies such as the City's Comprehensive Plan and Capital Improvement Program (CIP) as well as school, park and trail plans relevant to the study area.

Analysis of Development Potential

A memorandum summarizing the key economic drivers and indicators of development feasibility in the study area using stakeholder input and development expertise. An analysis of development potential for each of the subareas within the project study area will be provided.

Urban Design Analysis with Existing Conditions Maps and Diagrams

Graphics and composite maps will be developed for the area for use in creating urban design diagrams and envisioning potential urban form and character.

Vision and Urban Design Framework

A draft vision accompanied by a refined urban design framework including diagrams and graphics will be developed after receiving community input through sub area outreach and the first community workshop.

List of Projects/Programs and their costs to be considered for Implementation Strategy

A list of projects and programs intended to support the community's vision for the study area. Costs will be identified for both capital projects (e.g. street improvements) and non-capital programs (e.g. urban renewal administration).

Preliminary Tax Increment Finance (TIF) Analysis

This analysis will include a preliminary TIF analysis as well as any other relevant financial analysis to inform the implementation framework by placing realistic sideboards on the list of projects and programs and identifying opportunities for partnerships, additional resources, or creative approaches that need to be explored to advance key priorities.

Implementation Framework Memorandum

This document will provide high level guidance for implementation including an initial assessment of opportunities and barriers to implementing the community vision, areas of focus of implementation and investment criteria for evaluating the prioritization and phasing of projects and programs.

Urban Renewal Technical Evaluation

This analysis will include the information necessary to provide a recommendation as to whether or not an Urban Renewal district is feasible for the Core Area. It will delineate an urban renewal area and boundary based upon a comprehensive boundary evaluation. It will include tax increment projections using three time frames and growth scenarios, discuss the potential impacts on local taxing districts, and impacts on local residents and businesses as a result of an implemented plan's actions. The analysis will identify the total projected TIF revenue, potential maximum indebtedness, and revenue available for projects and programs in present value. This Urban Renewal work is meant to be a direct source of material that, if recommended, could be used to develop an Urban Renewal Plan and Report in compliance with state law.

Draft and Final Implementation Report & Interactive Story Map

This report will define the roadmap to implement the desired changes within the Core Area. The plan will describe desired projects, programs, and priorities and describe the actions necessary



for implementation. Actions and strategies could include regulatory changes (zoning), new policies (SDC financing, development incentives), or partnership opportunities. The report will describe funding opportunities and clarify the role that urban renewal funding will play relative to other potential funding sources. While Urban Renewal or TIF may be the tool chosen to fund many projects and priorities, it is unlikely to be sufficient to achieve all the desired outcomes. The report will also identify any of the barriers to implementation (regulatory, physical/aesthetic, or market challenges) to determine what is working and what needs improvement.

Phase 2 Deliverables

Draft and Final Urban Renewal Plan and Report

The plan will include a summary of comments from affected taxing districts as well as all elements required by ORS 457 (Urban Renewal Plan requirements) including:

- (a) A description of physical, social and economic conditions in the urban renewal areas of the plan and the expected impact, including the fiscal impact, of the plan in light of added services or increased population;
- (b) Reasons for selection of each urban renewal area in the plan;
- (c) The relationship between each project to be undertaken under the plan and the existing conditions in the urban renewal area;
- (d) The estimated total cost of each project and the sources of moneys to pay such costs;
- (e) The anticipated completion date for each project;
- (f) The estimated amount of money required in each urban renewal area under ORS 457.420 (Plan may provide for division of property taxes) to 457.460 (Financial report required for agency) and the anticipated year in which indebtedness will be retired or otherwise provided for under ORS 457.420 (Plan may provide for division of property taxes) to 457.460 (Financial report required for agency);
- (g) A financial analysis of the plan with sufficient information to determine feasibility;
- (h) A fiscal impact statement that estimates the impact of the tax increment financing, both until and after the indebtedness is repaid, upon all entities levying taxes upon property in the urban renewal area; and
- (i) A relocation report which shall include:
 - (A) An analysis of existing residents or businesses required to relocate permanently or temporarily as a result of agency actions under ORS 457.170 (Urban renewal agency's powers in planning or undertaking an urban renewal project);
 - (B) A description of the methods to be used for the temporary or permanent relocation of persons living in, and businesses situated in, the urban renewal area in accordance with ORS 35.500 (Definitions for ORS 35.500 to 35.530) to 35.530 (Federal law controls); and
 - (C) An enumeration, by cost range, of the existing housing units in the urban renewal areas of the plan to be destroyed or altered and new units to be added.

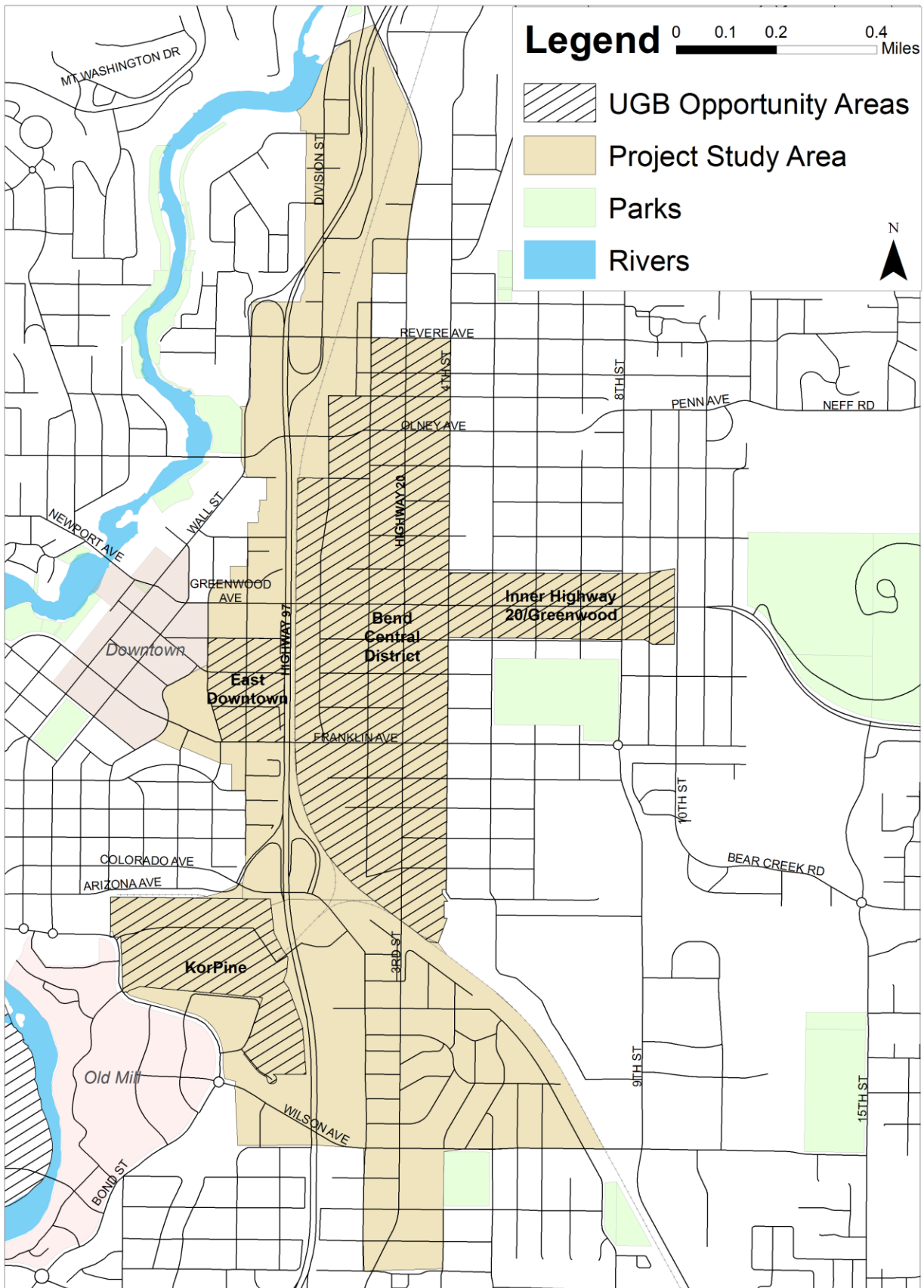


Figure 1. Project Study Area



Roles, Responsibilities, and Guidelines: Urban Renewal Advisory Board

February 12, 2019

Urban Renewal Advisory Board Role

As adopted in Bend Urban Renewal Agency (BURA) Resolution No. 123, the responsibilities of the Urban Renewal Advisory Board (URAB) are to:

1. Use the approved scope and schedule to provide input to the project team and recommendations to the Bend Urban Renewal Agency (BURA)
2. Meet and advise the project team during the development and creation of the Core Area Urban Renewal feasibility study.
3. Make a recommendation to BURA on whether or not to pursue an urban renewal district for the core area of Bend.
4. If needed, make recommendations on any additional work identified in the study such as incentives and programs that will assist with the redevelopment of the future district.
5. Advise the project team on the development and creation of an Urban Renewal Plan and Report, and adoption of a new district.

Committee Guidelines

- a. The committee shall elect a chair and vice chair to lead the committee. The Chair and Vice Chair will be responsible for:
 - a. Meeting with staff between meetings to help develop agendas, meeting formats, and supporting staff in public outreach. Chair and Vice Chair may be responsible for commenting on or reviewing documents.
 - b. At meeting, Chair and Vice Chair will be responsible for identifying strategies for moving group discussions forward.
 - c. Chair and Vice Chair will be responsible for presenting URAB's advisory recommendations.
- b. If a member can no longer participate on URAB, please let Matt Stuart know so that an alternate can be appointed at the earliest meeting date possible.
- c. The BURA Chair has appointed two alternates to fill seats on URAB if necessary. The BURA Chair must approve any replacement of URAB members.
- d. Consistent with City Code, the BURA Chair has the discretion to remove any URAB member that misses more than two URAB meetings without reason or notice, and appoint one of the URAB alternates to the committee in that member's place.

Meeting Guidelines

- a. The agenda and URAB discussions will be managed by the Chair, or someone designated by the Chair, which may include the project facilitator.
- b. Meetings will begin and end on time. If agenda items cannot be completed on time, the group will decide if the meeting should be extended or if an additional meeting should be scheduled.
- c. At times, the process will move quickly, so it will be essential to make decisions as efficiently as possible to stay on schedule. URAB members will review materials prior to meetings and actively participate in the discussion and decision-making process at each meeting.
- d. At the meetings, URAB members will:
 - Provide direct input as required to help reach group consensus;
 - Share the available speaking time so that all URAB members can be heard;
 - Be respectful of a range of opinions;
 - Strive to incorporate perspectives they hear throughout the community;
 - Focus on successfully completing the agreed upon agenda;
 - Avoid side discussions when others are speaking;
 - Express concerns, issues, and perspectives clearly, honestly, and early in the process;
 - Voice concerns regarding agenda items as needed at the meeting, rather than voice concerns to consultants and staff after the meeting; and
 - Strive for consensus and acknowledging points of mutual agreement.
- e. The Chair will gather comments and perspectives from other URAB members before a member speaks multiple times on an issue.
- f. The Chair will provide opportunities for brief public comment or announcements at the beginning or end of each meeting. Public comment will generally not exceed 20 minutes of allotted meeting time with a maximum of 3 minutes per individual, unless consent of URAB allows otherwise. Time permitting, the Chair may provide opportunities for public comment at other times of the meeting with the consent of the committee, such as immediately before URAB makes a decision. The agenda may indicate specific items where public comment is invited.
- g. Meeting minutes will be prepared for each meeting and distributed to URAB members for review and approval.
- h. When URAB members identify issues that are outside the scope of the committee's purpose, the ideas will be documented in an "idea bin" for future use by others, and the group will continue with the agenda.
- i. URAB meetings are "public meetings" under Oregon's public meeting statutes. They will be duly noticed and open to the public. Committee members will conduct substantive discussions about URAB business only at URAB meetings and not outside the public meeting setting. City staff will advise URAB of public meetings requirements.
- j. Before taking action on recommendations, URAB members will declare potential conflicts of interest, in accordance with Oregon law.

Decision Making

1. URAB will generally try to make decisions by consensus. Consensus is reached when all committee members either support or can live with the proposal, even if it is not each committee member's personal favorite.
2. If consensus cannot be reached, a decision will be made by majority vote. All voting will be recorded; no secret ballots are allowed.
3. A quorum is required to record a consensus or voted position of URAB. A quorum of URAB shall be a majority of the members appointed to serve.

Reconsideration of prior substantive decisions has potential impacts to project schedule and budget. Reconsideration of decisions on the night made (whether by consensus or vote) require a majority vote to approve reconsideration. A 2/3 vote is required to rescind or amend a prior decision at a meeting after the meeting at which the decision was made.



CITY OF BEND

M E M O R A N D U M

To: Urban Renewal Advisory Board

From: Mary Alice Winters, City Attorney

Subject: Conflicts of Interest for Public Officials for City Committees, Boards and Commissions (Permanent, Temporary, Ad Hoc)

Date: February 12, 2019

Although you serve on this advisory committee, board or commission as a volunteer, you are a member of a governing body providing recommendation(s) to the Bend Urban Renewal Agency (BURA) and the City Council. You are therefore a public official, subject to the conflict of interest laws. The Bend Municipal Code states that board, commission and committee members appointed by the City are considered “public officials” subject to State Ethics Law. BMC Section 1.20.015(E). These rules are in place to protect you as an appointed member of a public body, participating in official action. The rules distinguish between **actual and potential conflicts of interest**. Because you are making recommendations only, any conflicts will be **potential** conflicts, and only need to be publicly announced prior to taking action and you can continue participating in discussions and decision-making.

Decisions of the committee cannot be invalidated for failing to disclose a conflict but if a complaint is made to the Ethics Commission and upheld, you could face sanctions, including a letter of reprimand or a personal civil fine of a maximum of \$5,000 for each violation. By disclosing the nature of the conflict and having it reflected in the public record (the minutes) of the public body, you are protected.

A potential conflict is one that could result in a financial benefit or detriment to you, a spouse, child, parent, or other relative, or client, or a business with which you or the family member or client, are associated. A non-profit is not a business, nor is a government agency, for purposes of the rules about potential conflicts.

If you believe a decision that is before the committee could have a direct financial effect on you, your business, or that of a family member or client, you should announce that conflict each time before taking part in discussion or a vote on that issue.

We are not concerned with financial benefit or detriment that is merely speculative, or very distant from the committee recommendation – it is more if the recommendation could directly impact you or the other parties mentioned.

As a general rule, if you have the same interest as all residents (for example, if a county commissioner voted to approve a road that leads to property the commissioner owns but would affect benefit many property owners to the same degree), you do not need to declare a conflict, because the official would be exempt from the conflict of interest and participation restriction. The number of persons affected to the same degree as the public official will help to determine whether this identifiable “class” exemption applies.

For more information please see the Oregon Government Ethics Law Guide for Public Officials, especially pages 21-24, which can be found on the Oregon Government Ethics website: <http://www.oregon.gov/ogec/Pages/index.aspx> Ethics commission staff are available to provide informal telephone advice, or written opinions if needed, to help with compliance. The website also has the contact information for Ethics Commission staff.

The ethics rules apply to the person or official as an individual. However, the City Attorney’s office is also here to help you, so if you have a question about a particular association of yours, or want to know if you should declare a conflict at any time throughout this process, feel free to contact any of the attorneys. We can discuss the concern with you, or call the ethics commission with or for you.

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Ian Leitheiser ileitheiser@bendoregon.gov 541 693-2128

Gary Firestone gfirestone@bendoregon.gov 541 693 2124

ATTORNEY/PROJECT MANAGER MEMORANDUM



To: Urban Renewal Advisory Board
From: Mary Alice Winters, City Attorney
Subject: Open Meetings Law/Email Exchanges, Public Records and Minority Reports
Date: February 12, 2019

This memo is to give you legal and policy background for your role as a citizen advisory committee to the Bend Urban Renewal Agency and City Council on the Open Meetings and Records law. Some of you may know the basics already, but to be sure we are all on the same page, please review the discussion below.

Open Meetings Law and Advisory Committees:

This is the policy behind Oregon Public Meetings Law (ORS 192.610 to 192.690):

The Oregon form of government requires an informed public aware of the deliberations and decisions of governing bodies and the information upon which such decisions were made. It is the intent of ORS 192.610 to 192.690 that decisions of governing bodies be arrived at openly. ORS 192.620.

The term "governing body" is important in understanding the scope of Oregon Public Meetings Law. As defined by the law, "governing body" includes not only the City Council, but every other board, committee, commission, task force or subcommittee that makes a decision for the City or a recommendation to any other "governing body". Since the Urban Renewal Advisory Board (URAB) is charged with making recommendations to the Bend Urban Renewal Agency (BURA) and City Council, it is considered a "governing body" subject to the Oregon Public Meetings Law. As long as an advisory body is itself a governing body, the fact that its members may be private citizens is irrelevant. The Oregon Public Meetings Law extends to private citizens without any decision-making authority when they serve on a group that is authorized to furnish advice to a public body.

Whenever a quorum (majority) gathers in order to make a decision or deliberate toward a decision on any matter, it is a meeting. If a subcommittee of the URAB is formed to make a group recommendation to the URAB (as opposed to simply fact-finding), the notice and quorum rules then apply to the subcommittee. However, purely social gatherings of the members of a governing body are not covered by the law. The *purpose* of the meeting triggers the requirements of the law.

Successive Conversations and Electronic Communications as “Meetings”.

The main point of the Oregon Public Meetings Law is to require that all decisions and deliberations toward a decision by a “governing body” be made in a public meeting. The terms “deliberate” or “deliberation” are not defined, but are broadly applied. Any discussion or communication regarding a subject that is before (or could be before) the committee constitutes deliberation. See Attorney General’s Public Meetings Manual at 139-40. Therefore, even a meeting for the purpose of gathering information to serve as the basis for a subsequent decision or recommendation of the governing body must comply with public meetings law.¹ *Oregonian Publishing Co. v. Oregon State Board of Parole*, 95 Or App 501 (1988); see also ORS 192.620 (policy that the public has the right to know the “information” that a body is basing its deliberations or actions on).

While some personal discussion between members of less than a quorum of a “governing body” is allowed, any communications between two members of a committee regarding a substantive matter before the committee creates some risk of an Oregon Public Meetings Law violation. There are two main ways this can happen. The first is a series of conversations that eventually involves a quorum of the body. If one member suggests a course of action to two other members of a seven-member committee, and then each of those has a follow-up conversation with another member, the conversation has now included a quorum of the committee and is an Oregon Public Meetings Law violation if the conversations constitute deliberation.

The other common way that the Oregon Public Meetings Law can easily be violated is by electronic communication. A substantive email sent by one member of a committee to all or a quorum of the committee may constitute deliberation or conveying of information that can only be done in a public meeting. A “reply all” message on the same substantive subject could likely be found to be a violation. A series of emails, even if none of them involve a quorum, may constitute a meeting. See *Dumdi v. Handi*, Findings of Fact and Conclusions of Law, Lane County Circuit Court No 16-02760 (Jan. 14, 2011) (series of meetings and emails among or at the direction of certain Lane County Commissioners constituted a meeting that should have been public). The Oregon Court of Appeals recently held that a series of communications, some by email and some by phone or in-person conversations, among members of a governing body could constitute a violation of the Oregon Public Meetings Law, even if no communication involved a quorum of the body. *Handy v. Lane County*, 274 Or App 644 (2015). If the communications constituted deliberation, then they violated Public Meetings Law.

In addressing the issue of whether a quorum needs to be in simultaneous contact, the court stated:

¹ This does not mean that there can be no written communications to a governing body by staff or outside sources; however, if there are, those communications need to be made available to the public and included as part of the record of the proceeding. However, any discussion or comment on those communications by members of the governing body must be in a public meeting.

The legislative objective could be easily defeated if the statute rigidly applied only to contemporaneous gatherings of a quorum. For example, officials could be polled through an intermediary. In group email messages, officials could deliberate and declare their positions on upcoming issues. The same could be done through rapid, serial, group text messages in the moments before convening for an official meeting. In those examples, a quorum would have “deliberated” or “decided” the matter in “private” just as effectively as if all of the members had gathered secretly in a room and reached agreement before the public meeting. Given the purpose of the statute, we see no reason to treat those situations differently. *Oregonian Publishing Co.*, 95 Or App at 506.

The safest approach to compliance with the Oregon Public Meetings Law by committee members is to simply avoid substantive communication about committee business with other members of the committee outside of public meetings. Communication with staff is normally not a violation of public meeting law,² so all substantive communication should be with staff.

Finally, emails are not the only potential means of violating the Oregon Public Meetings Law – texts and social media posts may also constitute deliberation if related to the recommendation to council. Discussions via social media between members of the committee about matters before the committee is also best avoided.

Decisions made in violation of the public meetings law are voidable (meaning a court can invalidate the decision, depending on findings of intent or willful misconduct) and can award attorney’s fees against the public body or even the members of the governing body for egregious violations.

Information for Advisory Committees and Public Records

Information. Documents, reports, etc., shared by committee members either directly or through staff are public records since they contain “information related to the conduct of the public’s business”. ORS 192.410(4)(a) and 192.420. All email related to the committee work should be copied to City staff. Staff will maintain copies of all communications and documents between the City and the committee, and respond in the event of a public records request.

However, if any committee members use personal email for committee business that is *not* copied to staff, it could be subject to a public records request and the committee member would be responsible for searching their email. Therefore, any such personal email exchanges between committee members or with the citizens is strongly discouraged. The same is true for texting (substantive text, not texts about meeting times, etc.) or social media.

² Committee members cannot use staff to communicate with other members of the committee – the communications should be directed solely to staff.