

Oregon Sunshine Committee Meeting Minutes
 March 21st, 2018

Location:

Sunshine Committee Members	
<p>Oregon State Senator Brian Boquist (excused) Selena Deckelmann, Director of Engineering, Mozilla Firefox (by phone) Eileen Eakins, Law Office of Eileen Eakins, LLC Charlie Fisher, OSPIRG State Director Mary Beth Herkert, Oregon State Archivist Karin Johnson, Independence City Recorder Michael Kron, Special Counsel, Oregon Department of Justice Emily Matasar, Government Accountability Attorney, Governor’s Office Oregon State Representative Karin Power Oregon State Senator Floyd Prozanski (excused) Adrienne Roark, Vice-President and General Manager, KPTV Fox 12 (by phone) Morgan Smith, Polk County Counsel Brent Walth, Journalism Professor, University of Oregon Christian Wihtol, Senior Editor, Register Guard (excused) Oregon State Representative Carl Wilson (by phone)</p>	
Guests	
<p>Matt Friesen– Oregon Newspaper Publishing Association Nick Budnick – Society of Professional Journalists</p>	
Agenda	
VIDEO STREAM 0:00 – 1:30:48	
1.	<p>Welcome and Introductions</p> <p>Chair Kron began meeting at 1:00 p.m. He introduced Andy Foltz, newly hired Public Records Counsel at DOJ, who will be providing legal assistance to Sunshine Committee, helping with meeting materials and organizing the committee’s work.</p> <p>Members introduced themselves.</p>
2.	<p>Committee Procedures</p> <p>Chair Kron moved to discussion of who would serve as Vice Chair and what the responsibilities of the position would be. He asked volunteers to serve as Vice Chair.</p> <p>Ms. Matasar volunteered. A motion was made, and seconded, that Ms. Matasar be elected vice chair of the Committee. With no objections or discussion, Ms. Matasar was elected by unanimous vote.</p> <p>Chair Kron described proposed duties of Vice Chair and suggested that Committee would leave it up to himself and Vice Chair Emily Matasar to determine their respective duties, with the understanding that they would come to the Committee in the unlikely event of disagreement. A motion to that effect was made and seconded. With no objections or</p>

	<p>discussion, the Committee unanimously voted to accept this proposal.</p> <p>Mr. Budnick introduced himself and said he would like to comment later if possible. Chair Kron welcomed the comment at that time, noting there would not be a public comment portion of the meeting and that questions and comments had been accepted throughout the prior meeting.</p> <p>Mr. Budnick said he hoped everyone saw the value in this Committee and the work it's doing because it's easy to find the task daunting and lose sight of its importance.</p>
<p>3.</p>	<p>Discussion of Organizing Exemption Review</p> <p>Chair Kron opened the discussion by talking about his report to the Committee, and invited open discussion regarding options for organizing exemption review.</p> <p>Ms. Eakins spoke in favor of the categorized approach. Chair Kron expressed that he liked the approach as well, but pointed out that the Committee would still have to decide which categories to start with.</p> <p>Representative Power asked if Chair Kron had thought of any other possible approaches after sending the memo. Chair Kron replied no. In response to another question from Representative Power, Chair Kron explained that the numbers in parenthesis on his list showing the categories of exemptions indicated how many exemptions were in each category.</p> <p>Ms. Herkert noted the dangers of parsing categories of exemptions too finely, which could cause overlap between categories. She noted some overlap in some of the examples attached to the chair's report. She stated that, if the Committee goes the categorical route, it will need to decide which category is most important to tackle first.</p> <p>Mr. Fisher stated that he favors the categorical approach as well. He recalled that, in the prior meeting, it had been suggested that Committee members could recommend particular exemptions to start with. He also expressed support for the idea of using data about how often exemptions had generated disputes to decide which exemptions to consider first.</p> <p>Representative Wilson asked the chair to explain the document regarding exemptions with appellate cases and AG public records orders. Chair Kron explained that the chart shows how many times a particular exemption was at issue in a case before the Court of Appeals or Supreme Court, and how many times the Attorney General has issued an order regarding the exemption. Representative Wilson then asked whether Chair Kron recommended that the Committee adopt work done by the AG's task force, and Chair Kron replied in the affirmative.</p> <p>Ms. Herkert asked whether the Committee has power to reform a broad exemption or is limited to approving or disapproving exemptions. Chair Kron said Committee has</p>

authority to make any suggestion to legislature that they think is best. Chair **Kron** commented that the group seemed to agree that it should use the data about appellate cases and AG orders to proceed through a categorical review of exemptions.

Mr. **Walth** expressed skepticism that this approach would allow the Committee to provide reform to current unnecessary exemptions.

Mr. **Fisher** explained that is why he suggested combining the data driven approach with committee input regarding which exemptions should be reviewed.

Ms. **Eakins** and Mr. **Fisher** found common understanding on using categorical approach for starting point, and allowing Committee members to motion for particular exemptions to be looked at. Mr. **Walth** reiterated and general consensus was confirmed.

Representative **Wilson** asked if there are any “low hanging fruit” the Committee could reform to show progress. Chair **Kron** said yes, if that means combining redundant exemptions within a category to eliminate unnecessary ones.

Members then discussed the extent to which the Committee should develop guidance for members to assess exemptions, initiated by comments from Ms. **Herkert** and Ms. **Decklemann**. Chair **Kron** expressed doubt that the Committee could tell members what to think about particular exemptions. Ms. **Deckelmann**, Representative **Power**, Ms. **Herkert**, Ms. **Eakins** and Representative **Wilson** discussed that the idea would be to provide a consistent set of criteria for members to consider. Chair **Kron** expressed that he had misunderstood the nature of the suggestion, and proposed that the Committee should consider criteria presented by the Attorney General in opening remarks last meeting: essentially, what would the people of Oregon expect.

Ms. **Eakins** proposed specific questions. What public policy objective is intended to be accomplished? Is this exemption necessary to accomplish that? Is it clearly written? Is it duplicative? Is it appropriately broad or narrow? Representative **Wilson** summarized this suggestion as a “template for consistency.” Chair **Kron** and Ms. **Herkert** agreed. Chair **Kron** looked at the AG’s remarks from the prior last meeting and determined they are almost the same as Ms. **Eakins’**. He stated that these questions would leave room for various perspectives to be explored while providing a framework for approach.

Mr. **Budnick** knew of a similar list created by another state exploring the same issues and offered to send it to the Committee.

Chair **Kron** suggested that the Committee still needed to finalize a decision about structuring its review of exemptions.

Vice Chair **Matasar** asked whether the goal was to determine a schedule for evaluating exemptions over the next ten years. Chair **Kron** answered that the goal would be to outline a general order, and specifically identify what the committee intends to look at next. After discussion and consultation with the statutes governing the Committee,

	<p>members agreed that this approach would be consistent with statutory requirements.</p> <p>Chair Kron summarized general consensus regarding the approach to exemptions as a hybrid between a categorical approach, grouping similar exemptions together, and then setting an order for review based on the data, while also allowing members the ability to propose exemptions that the Committee will review before otherwise scheduled (along with other exemptions covering similar information). Members generally agreed that this was the consensus and Chair Kron asked for motion. The motion was made and seconded. None were opposed, there was no further discussion, and the motion passed unanimously.</p> <p>Chair Kron then returned to the discussion about establishing criteria for exemption review.</p> <p>Ms. Herkert suggested that the Committee should have a specific proposal to consider before adopting criteria. Chair Kron laid out four possible options: adopt Ms. Eakins questions, or the Attorney General's, with the possibility of amending them later; take the issue up as the first agenda item for the next meeting, after considering proposals that Chair Kron would develop based on the discussion and other materials provided by Mr. Budnick; add another meeting to the Committee's schedule; or else start the review of exemptions the meeting after next, instead of at the next meeting. Members ultimately agreed that Chair Kron should develop proposed criteria for assessing exemptions and circulate them in advance of the next meeting, where the Committee would discuss and adopt criteria.</p>
4	<p>Approval of Meeting Minutes</p> <p>Mr. Kron described a minor change to the meeting minutes requested by Ms. Eakins pertaining to her title and asked whether anyone else had changes they would like to request.</p> <p>Vice Chair Matasar asked if meeting minutes could be less detailed and lengthy.</p> <p>Ms. Herkert pointed out that without audio for public to reference the meeting minutes level of detail has to substantiate that. Chair Kron reminded that video/audio is available on OLIS. However, Ms. Herkert pointed out that it is unclear how long the video would be maintained and that detailed minutes allow for easy review of the Committee's business.</p> <p>Ms. Power advocated an intermediate level of detail, not verbatim but enough to capture general context. Mr. Foltz echoed that suggestion due to the duration of this task force (at least ten years). Chair Kron reassured Vice Chair Matasar that her duty of capturing the meeting minutes will likely be relieved by DOJ staff.</p> <p>A motion was made to accept the prior meeting minutes, with the change to Ms. Eakins' title. The motion was seconded, and without discussion or opposition, the Committee</p>

	unanimously voted to approve the minutes.
5.	<p>Future Meetings</p> <p>Chair Kron asked whether members had thought about how the Committee should conduct future meetings, and specifically how the committee should obtain stakeholder input and communicate information to stakeholders. He mentioned that an email address and webpage would be created, and raised the possibility of a listserv. Ms. Herkert advised against a listserv, citing the difficulty of administering it. She suggested that a blog might be a better idea.</p> <p>Mr. Smith spoke in favor of using a website to post meeting materials, agenda items, information received from public and details of next meeting. Chair Kron promised to let Committee members know when the website and the email address for public submissions are live.</p> <p>Representative Carl Wilson and Legislative Counsel Cameron Miles discussed the possibility of using Legislator’s site ‘OLIS’ to post. A separate page would need to be setup.</p> <p>Chair Kron asked for members views regarding stakeholder testimony. After some discussion, members agree that oral testimony would be welcome, with time limits imposed if agenda is tight.</p>
6.	<p>Report to Legislative Assembly</p> <p>Chair Kron discussed the need to submit a report to the Legislative Assembly by July of 2018. He explained his planned approach to the report, and promised to send a draft to Committee members for approval at the meeting in May.</p>
	<p>Adjourn</p> <p>After motion and second, the Committee unanimously voted to adjourn.</p>