

Tuesday, April 11, 2023



# Independent Salary Commission

Voter approved. Community centered. City delivered.



**Portland**  
Transition



# Zoom Overview

- Meeting is being recorded and will be posted on the Commission’s website.
- We have Close Captioning, American Sign language, and Spanish interpretation available.
- Commissioners, please change your chat setting to “Everyone”.
- Community members, you can submit questions or thoughts through the Q&A.

# Meeting Agenda

TIME	ACTIVITY
6:00 – 6:05pm	Welcome
6:05 – 6:15pm	Commission Business <ul style="list-style-type: none"><li>• Adopt March 28<sup>th</sup> meeting minutes</li><li>• Reflect on public comment report</li></ul>
6:15– 6:45pm	Training on Public Meetings Law- Maja Haium
6:45 – 7:05pm	BHR Presentation & Discussion on Research and Analysis <ul style="list-style-type: none"><li>• Follow up on Commissioner requests</li></ul>
7:05– 7:25pm	Commissioners Roles and Responsibilities <ul style="list-style-type: none"><li>• Co-Chairs</li><li>• Workplan</li></ul>
7:25 – 7:55pm	Commission’s Foundational Documents <ul style="list-style-type: none"><li>• Bylaws</li><li>• Values</li><li>• Working Agreements</li><li>• Desired Outcomes</li><li>• Community Engagement Framework</li></ul>
7:55pm	Next Steps
8:00pm	Meeting Adjourned





# Commission Business

- Approve March 28<sup>th</sup> meeting minutes
- Reflect on public comment report



# Training on Public Meeting Law

Maja Haium, Senior Deputy City Attorney

# Public Official Training for Salary Commission

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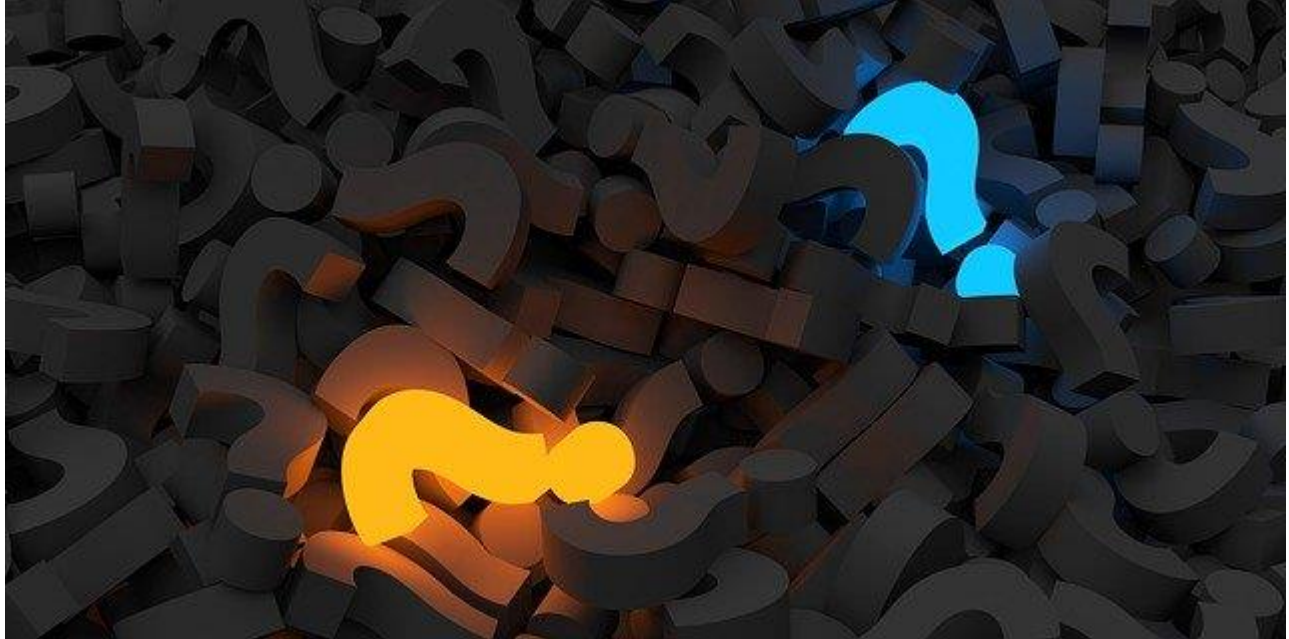
April 11, 2023

Maja K. Haium, Senior Deputy City Attorney

# Agenda

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- Public Official
- Public Meetings
- Public Records
- Legal Ethics





# Safeguard the Public Trust

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Service as a public official is a public trust. Compliance with all applicable laws is required to safeguard that trust.



# Public Official

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- Elected officials
- Appointed officials
- Employees
- Agents

# Public Meetings

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Policy: 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 are made.

What is a meeting?

1. Quorum required
2. To deliberate
3. On any matter

# Public Meeting?

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Yes:

- Regularly scheduled meeting
- Emergency meeting
- Full Commission meeting with sole purpose to gather information to serve as a basis for a subsequent decision or recommendation
  - *If exclusive purpose of a subcommittee is to gather and report information to full committee, subcommittee meetings may not be public*
- Subcommittee meeting, if the subcommittee has authority to make recommendations or decisions
- Serial communications
  - **BEWARE EMAIL and REPLY ALL**

# Public Meeting?

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No:

- Training session, IF no substantive issues discussed
- Social event, IF no substantive issues discussed



# Public Meeting Requirements

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- Notice, with Agenda
- Held within City of Portland
- Nondiscriminatory site
- Accessible to persons with disabilities
- Public attendance
- Official actions taken by public vote
- Minutes

# Questions on Public Meetings?

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# Public Records

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Policy: Every person has the right to inspect any nonexempt public record of a public body in Oregon.

What is a public record?

- Any writing that contains information relating to the conduct of the public's business . . . prepared, owned, used or retained by a public body regardless of physical form or characteristics.

# Public Record?

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Yes:

- Paper documents
- Photographs
- Maps
- Emails, even from personal account IF content is public business
- Text messages
- Chats in Zoom/Teams meetings
- Voicemails, until deleted



# Public Record?

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No:

- Transitory records
  - Typically emails, texts like “donuts in break room,” “large print job going through,” “yes, meeting starts at 9”
- Emails IF only content is personal
- Examples of material exempt from disclosure under law:
  - Business records required to be submitted
  - Trade secrets
  - Personal privacy exemption

# Legal Ethics

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Policy: Legal restrictions placed on public officials are different than those placed on private Oregonians because service in public office is a public trust.

- Compliance is the personal responsibility of each public official
- State legal requirements
- Portland City Code 1.03 (Code of Ethics)

# Questions on Public Records?

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# Legal Ethics

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Policy: Legal restrictions placed on public officials are different than those placed on private Oregonians because service in public office is a public trust.

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# Legal Ethics

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## Oregon Government Ethics Commission:

- Jurisdiction goes back 4 years
- Possible sanctions:
  - \$5,000 civil penalty
  - Forfeit 2x amount of financial benefit
  - Letter of reprimand, explanation or education

# Legal Ethics

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Who must public official consider when complying with legal ethics?

1. Public official
  - Volunteers on advisory board
2. Relatives of public official
  - Thanksgiving Rule
3. Business with whom public official or relative of public official is associated

# Legal Ethics

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Relative of public official (Thanksgiving Rule):

- Spouse
- Children
  - (or spouse's children)
- Siblings or parents
  - (or spouse's equivalent)
- Any individual for whom public official has legal support obligation
- Any individual from whom public official receives benefits arising from that individual's employment



# Legal Ethics

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## Business Associated with Public Official or Relative of Public Official:

- Privately-held business:
  - Director, officer, owner or employee
  - Own \$1,000 in stock or interest
- Publicly-held business:
  - Own \$100,000 in stock or interest
- NOT public bodies
- NOT tax-exempt 501-C non-profit IF associated only as board member or holds an unpaid position

# Legal Ethics

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- Use of Position
- Gifts
- Conflict of Interest

# Legal Ethics – Use of Position

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Rule: May not use, or attempt to use, official position to obtain a financial gain or avoid a financial detriment if the financial opportunity is not otherwise available to the public.

- Violation: Car wash example
- No Violation: Columbia store pass example

# Legal Ethics – Use of Position

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- Private employment example
  - May not use confidential information obtained through position
  - Take no official action that could financially impact your private employment
  - Disclose all conflicts of interest
  - Ensure clear distinction between use of resources and time for private employment and action as public official
  - May not, directly or indirectly, solicit or accept promise of future employment based on understanding that employment offer is influenced by public official's vote or official act



# Legal Ethics - Gifts

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Rule: During a calendar year, a public official may not solicit or receive, directly or indirectly, any gifts with an aggregate value in excess of \$50 from a single source that could reasonably be known to have a legislative or administrative interest in a decision or vote made by public official.

- Gift = Anything of economic value given for less value than is required from others who are not public officials.
- Legislative or Administrative Interest = Economic interest distinct from general public.
- Decision or vote = Act that commits public body to a particular course of action; NOT recommendation in advisory capacity.

# Legal Ethics - Gifts

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- Gifts exclusions:
  - Food and beverage exclusion
  - Does not allow private meals
- Expensive bike example

# Legal Ethics - Conflicts of Interest

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Rule: A public official is met with a conflict of interest when participating in an official action could result in a financial benefit or detriment to the public official.

1. Action, decision or recommendation made in official capacity, which causes or may cause
2. A private financial benefit or detriment for
3. The public official (or relative or associated business).

# Legal Ethics - Conflicts of Interest

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## Potential Conflict of Interest

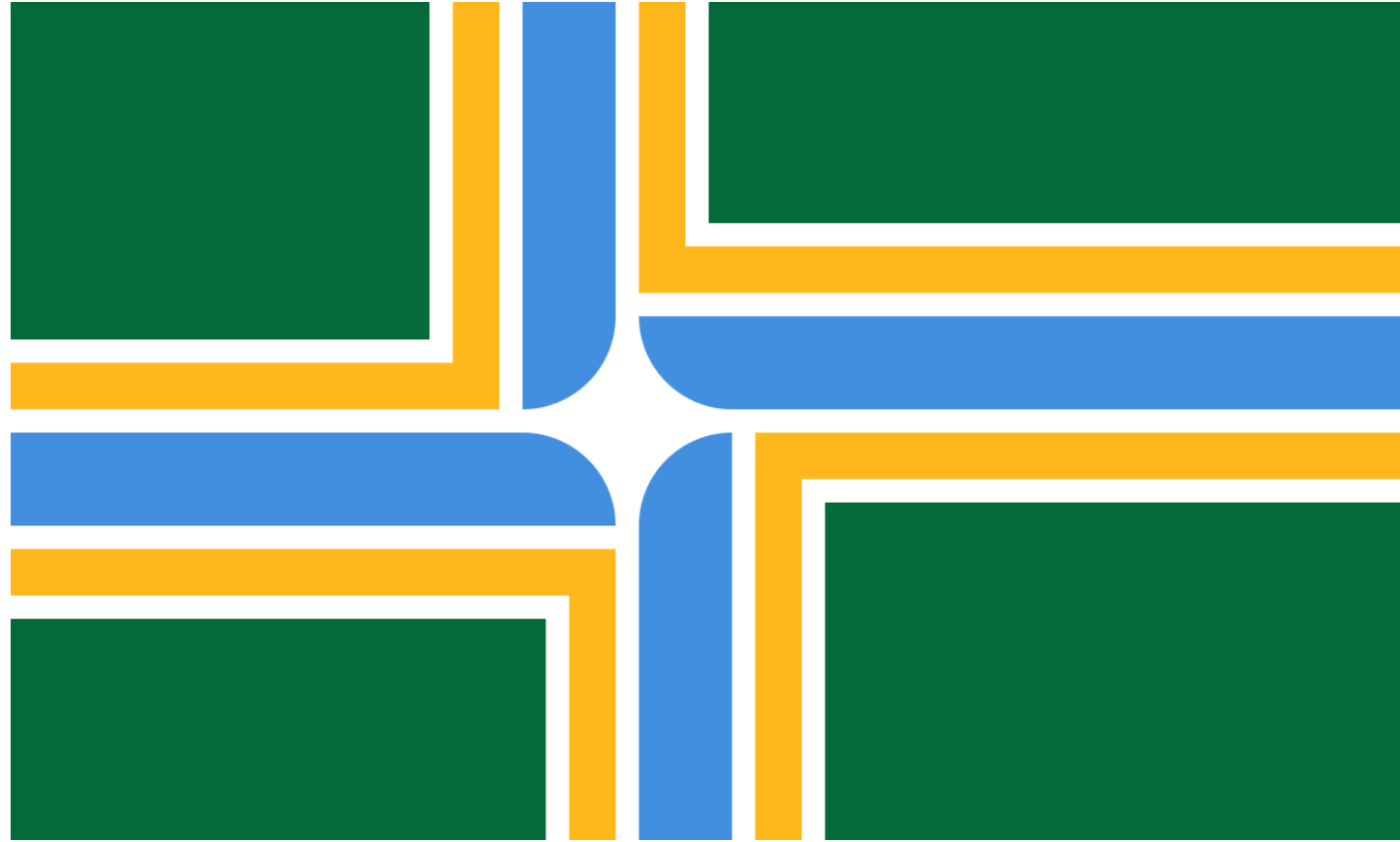
- Financial effect of an action is unknown because it might happen and it might not.
- Must publicly announce **potential** conflicts of interest on each occasion **before taking action**.

## Actual Conflict of Interest

- Financial effect of an action is both specific and certain.
- Must publicly announce **actual** conflicts of interest, on each occasion, and **refrain** from participating in **discussion, debate** or **voting** on the issue out of which the actual conflict arises.

# Questions on Legal Ethics?

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# Resources and Information

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## Oregon Attorney General's Public Records and Meetings Manual

- [https://www.doj.state.or.us/wp-content/uploads/2019/07/public\\_records\\_and\\_meetings\\_manual.pdf](https://www.doj.state.or.us/wp-content/uploads/2019/07/public_records_and_meetings_manual.pdf)

## Oregon Government Ethics Commission

- [www.Oregon.gov/OGEC](http://www.Oregon.gov/OGEC)
- 503-378-5105
- Training webinars on focused topics, staff advice

# Thanks for listening.

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Remember, Commission staff is here to help!







# BHR Presentation

Research requests from 3.28.23 meeting

# Research Requests from 3.28 Meeting

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## **What tools can we apply for equitable compensation analysis?**

- Best practice for setting pay grades
- Oregon Pay Equity law – same pay for comparable work
- Seeking expert knowledge, examples

## **What duties do elected officials have around engagement with marginalized communities?**

### **What comparators have similar duties?**

- Duties for elected officials are governed by City Charter not Class Specs
- No job description found for elected officials among comparators

# Research Requests from 3.28 Meeting

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## **Who creates the budget - Mayor creates and Council approves?**

- Structured budget process
- Council / Mayor vote to approve

## **How is pay set for elected officials? When was the last time pay was adjusted?**

- Prior to 2019 elected officials chose to apply COLA
- No pay adjustments since 2019

# Research Requests from 3.28 Meeting

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## How is COLA calculated for represented and non-represented employees?

- Based on CPI
- Represented – minimum of 1% increase, cap at 5%
- Non-represented – approved through annual budget process; typically mirrors represented

# Research Requests from 3.28 Meeting

## Structure of Elected Official Offices

- Auditor – has unique structure staffed to carry out mission of the Office
- Mayor and Commissioners Offices include
  - Admin Support Spec
  - Staff Rep
  - Senior Staff Reps
  - Community Service Aides
- Distinct positions are
  - Mayor
  - Mayor's Chief of Staff
  - Mayor's Deputy Chief of Staff (currently not filled)
  - Commissioner
  - Commissioner's Chief of Staff

Pay Ranges at <https://www.portland.gov/bhr/class-comp/comp-plans>

Portland.gov / Human Resources / Classification and Compensation / Comp Plans

# Research Requests from 3.28 Meeting

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## Benefits of Elected Officials

- Paid parking
- Medical, dental, vision coverage – 95% paid by City
- Basic life insurance coverage of \$50k
- Short and Long Term Disability coverage – 40% base salary; premium paid by the City
- Optional buy up coverage for life/disability
- Employee Assistance Program
- Voluntary FSA for health/dependent care
- PERS
- Deferred Compensation 457 program

# Research Requests from 3.28 Meeting

## Comparable Cities by Population Size / Presence of Salary Commission

Source: US Census Bureau, Population Division

City	Population	Salary Commission?	Link to Salary Commission Web Page
El Paso, TX	678,415		None found online; waiting for confirmation from city staff
Washington DC	670,050	No	
Boston, MA	654,776		None found online; waiting for confirmation from city staff
Las Vegas, NV	646,790	No	
Portland, OR	641,162	Yes	<a href="https://www.portland.gov/transition/salarycommission">https://www.portland.gov/transition/salarycommission</a>
Detroit, MI	632,464	No	Determined by staff based on market analysis, adopted by Council vote
Louisville, KY	628,594	No	
Memphis, TN	628,127		None found online; waiting for confirmation from city staff
Baltimore, MD	576,498	Yes	<a href="https://mayor.baltimorecity.gov/bc/boards/compensation-commission-elected-officials#boardinfo">https://mayor.baltimorecity.gov/bc/boards/compensation-commission-elected-officials#boardinfo</a>
Milwaukie, WI	569,330		None found online; waiting for confirmation from city staff





# Commissioner Roles & Responsibilities

Co-chairs  
Workplan

# Appointment of Co-Chairs

## Proposal based on survey answers

First term: April-May	Commissioner Johnson	Commissioner Engers
Second term: June-July	Commissioner Martinez-Alicea	Commissioner Gill

## Role of co-chairs

- Support the facilitator's role to lead discussions and keep the ISC to time/task
- Collaborate with staff and the facilitator on meeting agendas
- Provide guidance on content and ideas to meet the ISC's goals
- Establish time limits on testimony by members of the public
- Provide direction to staff in preparation for public meetings
- Provide feedback to staff on a variety of issues
- Participate fully and equally as a member of the ISC
- Encourage modified consensus decision making
- Lead meetings when all attempts at reaching consensus have been exhausted
- Act as an ISC spokesperson

# Independent Salary Commission Workplan

April	May	June	July	August	September
Foundational docs, and methodology research	Research and analysis	Release draft recommendations	Revise and final vote	Evaluation and documentation of process	Public information

**Meeting Details**

<p>April 11: Public officials training, Foundational documents, BHR methodology research/data as requested</p> <p>April 27: Finalize/vote on foundational documents, decide draft methodology scope and identify invited speakers. <b>Public Comment</b></p>	<p>May 9: BHR presents analysis of methodology scope, invited guests, recommend changes to methodology <b>Public Comment</b></p> <p>May 23: BHR presents additional analysis, invited guests <b>Public Comment</b></p> <p>May 30: BHR presents additional analysis, invited guests, draft initial salary recommendations <b>Extended Public Comment</b></p>	<p>June 13: BHR presents final analysis, amend and then VOTE to release draft recommendations for public comment <b>Public Comment</b></p> <p><i>June 14- Community Engagement begins</i></p> <p>June 27: Review, analyze, and revise based on public comment <b>Extended Public Comment</b></p>	<p><i>July 10- Community Engagement ends</i></p> <p>July 11: Final review of public comments, final recommendations on changes, VOTE on salary proposal</p> <p>July 25: Review and discuss documentation of methodology, second vote if needed</p>	<p>August 22: Debrief, approve documentation of methodology, document recommendations for future Salary Commissions</p>	<p>TBD</p>
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# Foundational Documents

## Bylaws

*Structural rules*  
outlining how we must work.



## Working agreements

*Shared understanding*  
of how we will work together.



*Statements of principles*  
guiding how we will work.

## Values



*Approach for grounding*  
our work in community.

**Community  
Engagement Framework**



# Voting & Hearing Requirements

	Housekeeping Decisions	Process Decisions	Subcommittee Decisions	Salary Plan Decisions
Type of decisions	Approve meeting minutes, etc.	Approve bylaws, create subcommittees, etc.	Move recommendations to the Commission, etc.	Adopt the methodology and salary proposal
Quorum	Three (3) or more Commissioners	Three (3) or more Commissioners	Fifty percent (50%) plus one (1) Subcommittee members	Three (3) or more Commissioners
How	Modified consensus. If no consensus reached, roll call vote. Minutes will reflect each Commissioner's position.	Modified consensus. If no consensus reached, roll call vote. Minutes will reflect each Commissioner's position.	Modified consensus. If no consensus reached, roll call vote. Minutes will reflect each Commissioner's position.	Modified consensus, including roll call vote to meet Charter voting requirements. Minutes will reflect each Commissioner's position.
What prevails	Fifty percent (50%) plus one (1) of Commissioners present	Fifty percent (50%) plus one (1) of Commissioners present	Fifty percent (50%) plus one (1) of Subcommittee members present	Three (3) or more affirmative votes adopts the salary proposal.  Fifty percent (50%) plus one (1) of Commissioners present adopts the methodology
Absentee Voting	Prohibited	Prohibited	Prohibited	Prohibited
Proxy Voting	Prohibited	Prohibited	Prohibited	Prohibited

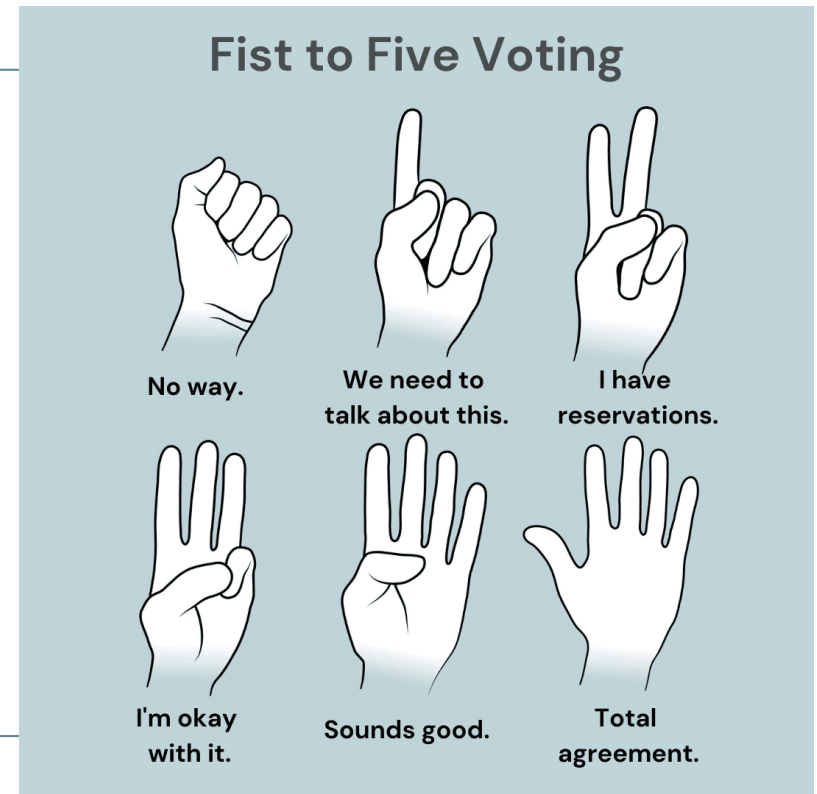
# Bylaws

## Requests for changes/additions:

- Added Fist to Five strategy into Modified Consensus Model

**C. Modified Consensus Decision Making.** The ISC will make decisions collaboratively – all viewpoints will be honored, respected, and have appropriate time for consideration. To make a decision on any proposal or matter:

- The ISC may receive informational briefings;
- Commissioners will deliberate (the facilitator will use the stack method to identify who speaks and when and encourage participation by all Commissioners);
- During deliberation the ISC will use the Fist to Five method to assess agreement and to allow all members an equal say before taking a final vote;
- If the Fist to Five method identifies consensus, no roll call vote is necessary. If consensus is not reached, a roll call vote will be taken and recorded.



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- Other?

# Values

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## Requests for changes/additions

- Anti-racism
  - Add more specific language and commitments to decolonize work, particularly decolonizing compensation and its traditional structures (Commissioner Martinez-Alicea)
- Equity
  - Add language about livable wages that promote people from all income levels to be attracted to elected governmental work, not just those that are independently wealthy (Commissioner Gill)
  - Compensation decisions take external market, similar roles in other cities, cost of living in the city, and internal pay equity into consideration (Commissioner Engers)
- Transparent
  - Portlanders understand why and how compensation decisions are made (Commissioner Engers)
- Fiscal Responsibility
  - Compensation decisions are competitive, but appropriate and responsible (Commissioner Engers)
- Other?



# Working Agreements

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## Requests for changes/additions

- One request to add language about being prepared ahead of time (see 4a)
- Other?

# Desired Outcomes

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## Requests for changes/additions

- All six Charter Commission Desired Outcomes were identified as relevant and important to the work.
- Multiple requests to discuss further.

# Community Engagement Framework

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## Requests for changes/additions

- Multiple comments about making sure the engagement includes reaching underrepresented groups and communities who have been historically economically disadvantaged.
- Multiple requests to discuss further.



# Next Steps

- Next meeting is Thursday, April 27<sup>th</sup>
- Next meeting will be hybrid and include public comment
- Any additional research requests?



# Meeting Adjourned

