

Testimony to the Bureau of Planning and Sustainability -  
080916

Good evening:

My name is Burton Francis and I am an attorney representing an unincorporated association of concerned citizens, *Oregonians for Ethics in Government*. All of us are deeply concerned by the failure of the City to follow the ethics recommendations of the Ombudsman regarding disclosure of conflicts of interest among the West Quadrant SAC members, an essential element of the Central City 2035 Plan.

The Ombudsman's report was clear that the SAC members are to be considered 'Public Officials' for the purposes of land use and public policy recommendations.

'Public Officials' are under a duty to act responsibly and ethically under Oregon State Law 'before-the-fact'. ORS 244.120(2), specifically dealing with Government Ethics, requires public disclosure for even *potential* conflicts of interest prior to taking any action.

The West Quadrant SAC members, however, did **not** disclose their conflicts prior to discussing, voting upon, and submitting their recommendations. The recent Staff Memo Dated August 4<sup>th</sup>, 2016, lists those on the SAC who, incredibly enough, have yet to even return the disclosure form, but still fails to note which disclosures were so vague that they effectively disclosed nothing.

After-the-fact ratification by you or the City Council cannot require merely 'substantial compliance' disclosure by the SAC members because no *meaningful* after-the-fact ratification can take place without an informed review of these many conflicts by the acting body.

Because the Ombudsman's report made it clear that the SAC members are Public Officials, the report itself is a form of notice that changes the dynamic of the situation for all involved.

ORS 162.415 in part defines 'Official misconduct in the first degree' as when:

(1) ... with intent to obtain a benefit ... :

(a) The public servant knowingly fails to perform a duty imposed upon the public servant by law or one clearly inherent in the nature of [the] office ....

Thus, these ethical failures --- if done with the intent to benefit from the SAC recommendations --- would, at the least, constitute the appearance of Official Misconduct by those now failing to fully disclose and those enabling that unethical conduct.

We urge this Commission and the City Council of Portland to seriously address these ethical shortcomings.

Thank you