

IMPACT STATEMENT

Legislation title: Authorize City Attorney to Appear as Amicus Curiae in *Rob Handy v. Lane County*, Oregon Supreme Court No. S063725 (Resolution).

Contact name: Harry Auerbach

Contact phone: 3-3122

Presenter name: Ben Walters

Purpose of proposed legislation and background information:

The purpose of this legislation is to authorize the City Attorney to appear amicus curiae in a case before the Oregon Supreme Court, in order to advocate for an interpretation of what constitutes a “meeting” under Oregon’s Public Meetings Law that preserves the requirement of open meetings, but that respects the legitimate need of elected officials to communicate with one another and with City staff outside of a public meeting. The court is reviewing a decision of the Oregon Court of Appeals that held that a series of email exchanges between a county administrator and members of the county commission constituted a “meeting,” even though no single exchange included a quorum of the commission. If three individual Council members could not communicate separately, outside of a duly noticed public meeting, with, for example, the Auditor or the Chief Administrative Officer or the City Budget Officer, or, for that matter, with their constituents, on any matter that might ultimately come before the Council, that would make it very difficult and cumbersome for the City to function. The court of appeals’ interpretation of “meeting” is contrary to the text and context of the statute, and the City needs to assert its interests in order to get the Supreme Court to adopt a workable definition of “meeting” that comports with the practical realities of City government.

Financial and budgetary impacts:

There is no direct financial or budgetary impact of this Resolution. The City Attorney will participate through her own staff of lawyers, and there are minimal out-of-pocket expenses necessary, which can be paid for out of the City Attorney’s current budget. It is likely that, should the Supreme Court endorse the Court of Appeals’ construction of when a public meeting is required, the City will be exposed to increase costs, through inefficiencies of individual Council members not being able to get necessary information from one another or from City staff or Council’s constituents, or through lawsuits challenging a variety of communications as violating the public meetings law.

Community impacts and community involvement:

There has been no public involvement, as this is a legal matter. This Resolution is intended to preserve individual Council members’ ability to communicate with all of their constituents, from all communities, and in all areas of the City, without having to have all communications take place in the context of a public meeting. We do not know whether anybody will testify on this matter, although we expect that some people might be concerned that the City is trying to justify doing secret back-room deals. That is not the intent of the Resolution.

Budgetary Impact Worksheet

Does this action change appropriations?

- YES:** Please complete the information below.
- NO:** Skip this section

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount