

**City of Orting
Civil Service Commission
MEETING AGENDA**

Monday, July 25, 2022
7:00 pm
City Hall Council Chambers
104 Bridge Street S, Orting, WA
Zoom - Virtual



COMMISSIONERS

Jeff Craig - Chair
Brittney Hamilton - Vice Chair
Robert Agfalvi
Charles Brass
Stephanie Kuxhausen
Shawna Punzalan - Secretary

1. CALL MEETING TO ORDER, PLEDGE OF ALLEGIANCE AND ROLL CALL

This meeting is being held in person and through the platform Zoom. A link for virtual participation can be found on the agenda or on the City's website.

<https://us06web.zoom.us/j/87346909563?pwd=ZIRMeTRFQUVpSkq1Rm5XaGR4UUQzQT09>

Telephone: 1-253-215-8782 – Meeting ID: 873 4690 9563 and the passcode 704094.

2. APPROVAL OF MINUTES

Motion: To approve minutes from May 23, 2022 meeting.

3. NEW COMMISSIONER APPOINTMENTS

Introduce Stephanie Kuxhausen and Charles Brass.

4. COMMISSIONER APPOINTMENTS AND TERM LENGTHS

Review – appointment length and current terms, renumbering of commission seats to streamline record keeping.

5. OPEN PUBLIC MEETING ACT TRAINING

Discussion – OPMA Training

Motion: To watch WA State Attorney General's video training of OPMA at August commission meeting.

6. ADJOURNMENT

Next Scheduled Meeting:

Monday, August 22, 2022 – 7:00 pm

COMMISSIONERS

Jeff Craig - Chair
Brittney Hamilton - Vice Chair
Robert Agfalvi
Shawna Punzalan - Secretary



ORTING CIVIL SERVICE COMMISSION

Meeting Minutes
104 Bridge Street S, Orting, WA
May 23, 2022
7:00 pm
City Hall Council Chambers or Zoom - Virtual

1. CALL MEETING TO ORDER, PLEDGE OF ALLEGIANCE AND ROLL CALL

The meeting was called to order at 7:00 pm. The Pledge of Allegiance was lead by Commissioner Robert Agfalvi.

2. ROLL CALL

Present: Chair Craig, Vice Chair Hamilton, Commissioner Agfalvi, Secretary Shawna Punzalan, City Administrator Scott Larson, City Clerk Kim Agfalvi

3. APPROVAL OF MINUTES

Approval of corrected minutes from February 28, 2022 and minutes from April 25, 2022 meeting

Motion: Vice Chair Hamilton made a motion to approve February 28, 2022 corrected minutes. Seconded by Commissioner Agfalvi.

Motion passed (3-0)

Motion: Vice Chair Hamilton made a motion to approve April 25, 2022 minutes. Seconded by Commissioner Agfalvi

Motion passed (3-0)

4. NEW BUSINESS – COMMUNITY SERVICE OFFICER

Chair Craig opened discussion regarding new patrol officer sub-classification of Community Service Officer. City Administrator Larson gave clarification on this position as approved by city council which includes funding approved for the remainder of 2022. This position is equivalent to a standard patrol officer with a specified sub-set of expectations that dictate fluctuated hours and responsibilities per the approved Job Description. Vice Chair Hamilton asked if an internal lateral hiring process would not take from current patrol officer numbers currently on staff with Orting Police Department and City Administrator Larson confirmed.

Action: Memorandum to be written to identify Community Service Officer is subject to Civil Service rules per Civil Service definition rule 4.3 and is defined as a sub-set of the Patrol Officer classification per Civil Service Rule 4.2.

Motion: Commissioner Agfalvi made a motion to approve Community Service Officer position. Seconded by Vice Chair Hamilton.

Motion Passed (3-0)

Motion: Vice Chair Hamilton made a motion to approve posting for internal hire for creation of certified list for lateral applicants. Commissioner Agfalvi seconded.

Motion passed (3-0)

5. PROPOSED DISCUSSION

Chair Craig opened discussion regarding topics for upcoming meeting(s). He requested commissioners begin to consider Oral Board interview questions and amending Composition of Oral Board rules to include one to two civilian Orting residents to sit as examiners. City Administrator Larson asked the commission to consider not only Orting residents as civilian examiners but to also consider business owners within Orting to sit as examiners as they have a vested interest in public safety of Orting.

6. ADJOURNMENT

Chair Craig adjourned the meeting at 7:32 pm

Next meeting: JULY 25, 2022 at 7:00 pm

X _____
Chair Jeff Craig

X _____
Secretary Shawna Punzalan

Commission History

POS #	Name:	Appointed	Term End	Resignation	
1	Dannat, Mike	1/1/2012	12/31/2017	reappoint	
1	Dannat, Mike	1/1/2018	12/31/2023	1/27/2020	
1	Larremore, Tracy	1/27/2020	12/31/2023	10/1/2021	
1	Hamilton, Brittany	10/26/2021	12/31/2023		
2	Meadows, Lonny	1/1/2012	12/31/2017	reappoint	
2	Meadows, Lonny	1/1/2018	12/31/2023	9/1/2021	
2	Yocom, Dave	9/2/2021	12/31/2023	4/5/2022	
2	Charles Brass	7/20/2022	12/31/2023		
3	Daniels, Tyler	8/21/2015	12/31/2019	12/31/2015	
3	Robson, Howie	1/1/2016	12/31/2019	12/31/2017	
3	Hartman, Chris	1/1/2018	12/31/2025	10/1/2021	
3	Agfalvi, Robert	10/26/2021	12/31/2025		
4	Inge, David	1/1/2016	12/31/2021	12/31/2017	
4	Langdon, Diane	1/1/2018	12/31/2021	12/31/2021	
4	Kuxhausen, Stephanie	6/2/2022	12/31/2027		<i>corrected from original appointing letter.</i>
5	Hogan, Greg	1/1/2016	12/31/2021	12/31/2017	
5	Craig, Jeff	12/13/2018	12/31/2021	reappoint	
5	Craig, Jeff	1/1/2022	12/31/2027		<i>corrected for 6 year term</i>

Secretary

Meek, Beckie		4/6/2017
Montgomery, Jane	9/15/2017	6/25/2018
Corona, Jennifer	7/1/2018	5/3/2019
Schwaab, Erica	5/16/2019	4/30/2022
Punzalan, Shawna	4/25/2022	

Orting Municipal Code Chapter 2

2-2-2: MEMBERSHIP, GENERAL PROVISIONS:



A. Compensation: Persons appointed to the commission shall serve without compensation.

B. Qualifications: No person shall be appointed a member of such commission who is not a citizen of the United States, a resident of the City for at least three (3) years immediately preceding such appointment, and an elector of Pierce County.

C. Terms: The term of office of the members of the commission shall be for six (6) years; however, in the event of the death, removal or resignation of a Commissioner, the appointment made to fill the position shall be only for that Commissioner's unexpired portion of the six (6) year term.

Open Government Training: OPMA and PRA

Charlotte A. Archer,
City Attorney



Open Government Trainings

In 2014, the Legislature enacted a law requiring elected officials (and public records officers) to receive training in:

- Open Public Meetings Act (Ch. 42.30 RCW)
- The Public Records Act (Ch. 42.56 RCW)
- Public Records Retention (Ch. 40.14 RCW)

Open Government Trainings Act

- Must complete training no later than **90 days** after taking oath of office or assuming duties as a public official.
- “**Refresher training**” must be completed at intervals of no more than **4 years**.
- Training must be consistent with the Attorney General’s Model Rules for compliance with the PRA. Ch. 44-14 WAC
- Training may be completed remotely with technology including but not limited to internet-based training.
- <https://www.atg.wa.gov/opengovernmenttraining.aspx>

Open Public Meetings Act

Ch. 42.30 RCW

Open Public Meetings Act

Ch. 42.30 RCW

Purpose of Open Public Meetings Act (OPMA).

- All **meetings** of the **governing body** of a **public agency** shall be open and public. RCW 42.30.030.
- Citizens of the state have not given their public servants the right to decide what is good for the people to know and what is not good for them to know. RCW 42.30.010.

Open Public Meetings Act

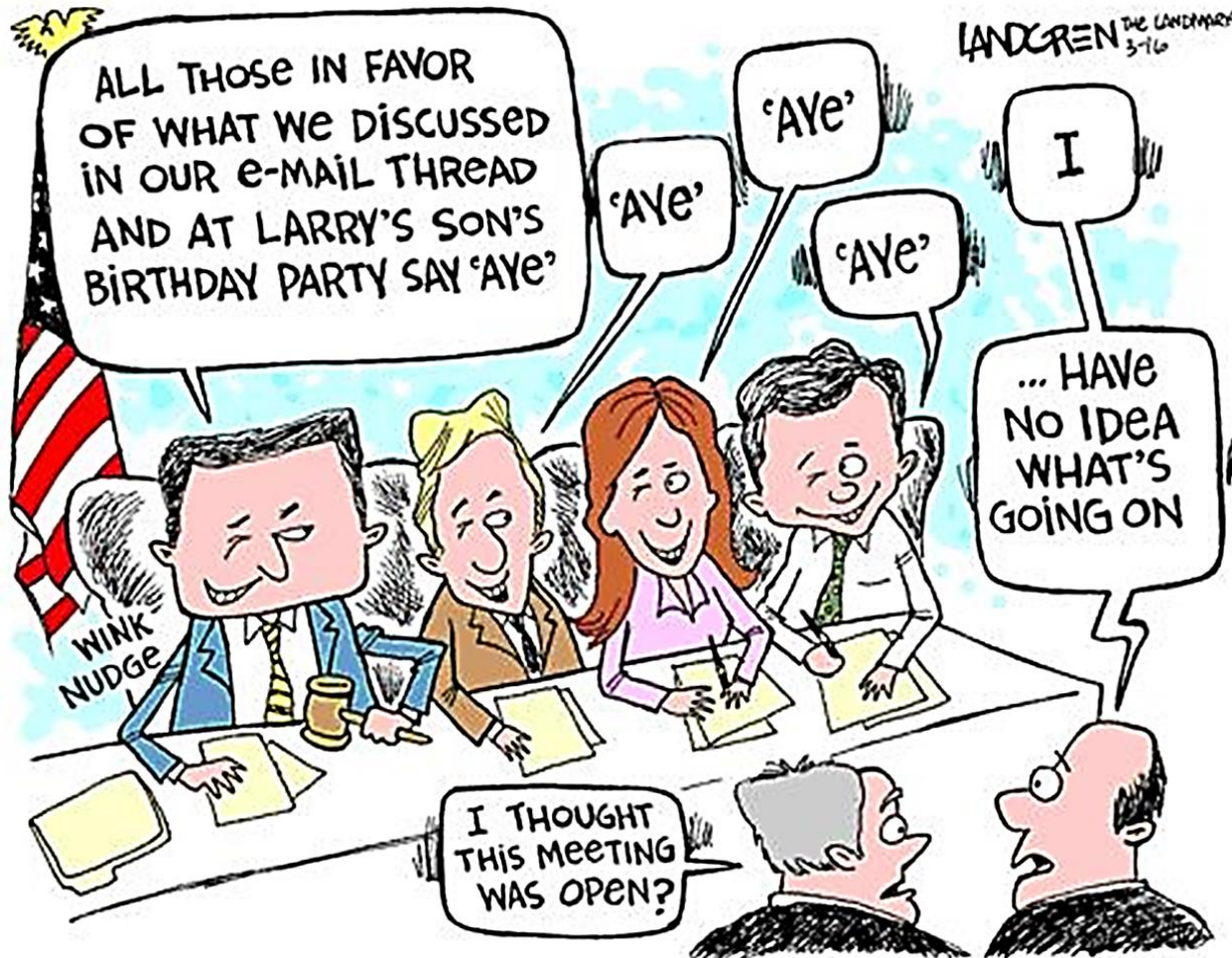
Ch. 42.30 RCW

Definitions in the OPMA

- **Meeting** means meetings at which action is taken.
- **Action** means the transaction of the official business of the governing body and includes deliberations and discussions, as well as final actions.
- **Governing body** means the multi member governing body or other policy or rule-making body of a public agency.
- **Public agency** includes special purpose public agencies.

RCW 42.30.020

What Not to Say or Do



Rules for Setting and Giving Notice of Regular and Special Meetings

Notice of regular meetings:

- Established by law – Regular meetings must be fixed by resolution.
- No special notice required.
- Agenda of each regular meeting must be available online no later than 24 hours in advance of the meeting start time. Exceptions: (a) agency does not have a web site or (b) agency employs fewer than 10 employees.

RCW 42.30.070

Conduct of Meeting

- No registration requirement. RCW 42.30.040
- Speaking may be prohibited or limited.
- Recording of meeting.
- Removal of audience member. RCW 42.30.050
- Minutes – promptly recorded / open to public inspection. RCW 42.30.030
- No secret ballots. RCW 42.30.035

Meetings by Telephone or by E-Mail

- Telephonic Meetings are Allowed (speaker phone).
- E-mail Exchanges May Be Subject to the Act.

Wood v. Battle Ground School Board

- ❖ Mere use or passive receipt of email; receipt of information only regarding upcoming issues involving quorum not subject to OPMA.
- ❖ Active exchange of information and opinions, exchange of emails regarding issues that may or will come before governing body involving quorum subject to OPMA.

Meetings by Social Media

- Websites
- Blogs (on-line journals)
- Texting
- Twitter
- Facebook
- Instagram

Meetings Occur When Action is Taken

- The term “action” is the transaction of the official business of the governing body and includes, among other things, **deliberations**, **discussions** and **reviews**, as well as final actions (collective decision or vote). RCW 42.30.020(3).
- A meeting does not automatically occur when a majority of governing body members gather together. It is **not** a violation of the Act for:
 - A majority of the members of a governing body to **travel** together or **gather** for purposes other than a regular meeting or a special meeting as these terms are used in this chapter; provided, that they take no action as defined in this chapter.

RCW 42.30.070

Decisions and Discussions in Executive Session - Exceptions

Executive Sessions

- Purposes for Holding Executive Sessions.
 - ❖ Specifically authorized in statute
- Taking Final Action in Executive Sessions.
- Attendance at Executive Session.

RCW 42.30.110

Exemptions to the OPMA

OPMA does not apply to:

- Quasi-judicial matters (e.g. LID appeals)
- Collective bargaining sessions, strategy sessions
- Grievance or mediation proceedings

RCW 42.30.140

Sanctions for Violation of the OPMA

- Action taken are null and void.
- Personal liability if knowledge of violation – Civil penalty (\$500 for 1st violation / \$1,000).
- Mandamus or injunctive action.
- Attorney's fees and costs.
- Recall (Malfeasance).

Public Records Act

Ch. 42.56 RCW

Public Records Act - Ch. 42.56 RCW

Legislative Statement

- The people do not yield their sovereignty to the agencies that serve them.
- The people do not give their public servants the right to decide what is good for the people to know.
- The people insist on remaining informed so that they may maintain control over the instruments that they have created.

Disclosure of Public Records is Mandated

- Courts have reiterated that the Act's primary purpose is to promote broad disclosure of public records.
- The PRA specifies that courts must construe the Act liberally in favor of disclosure.

Public Records Act

Ch. 42.56 RCW

Definitions in the PRA

- **Agency** includes all state agencies and all local agencies; a “local agency” includes every county, city, town, municipal corporation or special purpose district.
- **Public record** includes any writing containing information relating to the conduct of government or the performance of any governmental or propriety function prepared, owned, used or retained by the agency regardless of physical form . . .
- **Writing** means handwriting, typewriting, printing, photostating, photographing and every other means of recording any form of communication and representation . . .

RCW 42.56.010

Public Records Act

Ch. 42.56 RCW

What is a Public Record?

3-Part Test

1. A **writing** (regardless of form or characteristic)
 - ❖ Includes email, texts, social media posts, photos
2. Relating to the **conduct of government**
 - ❖ almost all records held by an agency relate to the conduct of government; however, some do not.
 - ❖ Example – Purely personal email sent on agency computer
3. Prepared, owned, used or retained (POUR)

RCW 42.56.010
WAC 44-14-03001

Public Records Act

Ch. 42.56 RCW

PRA Requirements

- All public records must be made available for inspection and copying, unless exempt. RCW 42.56.070
- Agencies must adopt and enforce reasonable disclosure rules and regulations. RCW 42.56.070 and .100
 - ❖ Fullest assistance possible and timely responses required.
- Public records officer must be appointed. RCW 42.56.580
- Public records index, unless duly burdensome. RCW 42.56.070(4)

Public Records Act

Ch. 42.56 RCW

Process for Responding to Records Requests

- **5-Day Response.** Must respond within 5 business days. RCW 42.56.520
- **Response Time.** Must be reasonable. RCW 42.56.520
- **Inspection of Records.** Must make facilities available for copying, unless disruptive to the operations. RCW 42.56.080
- **Form of Requests.** Must honor requests by mail or email. RCW 42.56.080 and .100
- **Office Hours.** Public records to be available for inspection during regular office hours. RCW 42.56.090
- **Installments Allowed.** If an installment is not claimed or reviewed, the agency is not obligated to fulfill the balance of the request. RCW 42.56.080 and .120

Public Records Act

Ch. 42.56 RCW

Reasonable Search Required

- Agency must perform an adequate search for responsive records.
- An adequate search is judged by a reasonableness standard. Search **must be reasonably calculated to uncover relevant documents.**
- Agencies are required to make more than a perfunctory search, and must follow up on obvious leads as they are discovered.
- A search should not be limited to one or more places if there are additional sources for the information requested.
- An agency does not need to search in every possible place a record may conceivably be stored, but those places where it is reasonably likely to be found.
- No duty to create records.

Public Records Act

Ch. 42.56 RCW

Charges for Processing Records Requests

- **No Fee to Inspect.** No fee may be charged for inspection; no fee shall be charged for locating public documents. RCW 42.56.120
- **Charging for Records.** RCW 42.56.070(7) and .120
 - ❖ Actual costs - Agencies can charge the actual cost incurred for providing copies by adopting a statement of costs (after holding a public hearing).
 - ❖ Statutory charges.
 - 5 cents/page for photocopies or printed electronic copies
 - 10 cents/page for records scanned into electronic format
 - The actual cost of digital media device, container used to mail the copies, and the actual postage or delivery charge.
- **Deposit Requirement.** An agency may require a deposit not to exceed ten percent of the estimated cost to provide copies of the requested records. RCW 42.56.120

Public Records Act

Ch. 42.56 RCW

Exemptions to Disclosure

The PRA sets forth a long list of potential exemptions. **Commonly used exemptions** include the following:

- **Personal information.** Personal information in files maintained for employees, appointees or elected officials of any public agency to the extent that disclosure would violate their right to privacy. Release of records would be (1) highly offensive and (2) is not of legitimate concern to the public. RCW 42.56.230(3)
- **Financial information.** Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial account numbers, except when disclosure is expressly required by or governed by other law RCW 42.56.230(5)
- **Commercial list.** The PRA does not allow an agency to provide a list of individuals for commercial purposes. RCW 42.56.070(8)

Public Records Act

Ch. 42.56 RCW

Denied Requests – Exemption Log Required

- If an agency refuses, in whole or in part, inspection of any public record, it must include:
 - ❖ A statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld. The explanation is mandatory.
 - ❖ Preparation of Exemption Log.

RCW 42.56.210(3).

- Redaction of exempt information.

Sanctions for Violation of the PRA.

An Agency that violates the PRA could be subject to the following sanctions:

- Attorney's fees and costs in connection with the legal action. RCW 42.56.550(4).
- Penalty from \$0 to \$100 for each day that a record was wrongfully withheld. RCW 42.56.550(4).

Note: A public agency, public official and public employee shall not be liable for any loss or damage due to release of a public record if acted in good faith. RCW 42.56.060.

Significant 2020/21 WA Sup. Court Cases on OPMA/PRA

- *Zink v. City of Mesa (2021)*, removal for livestreaming results in liability under OPMA.
- *O'Dea v. City of Tacoma (8/24/2021)* \$2,607,940 penalty (\$10 per-day penalty, per record).
- *Green v. Pierce County (5/27/2021)*, Youtuber not a media entity.
- *West v City of Tacoma (1/28/2020)*, inadequate search when using parameters to narrow focus.

Questions?
