

PRAC January 22, 2020 public comment submitted

From: Michael Andersen

Subject: supporting a strong & independent public records advocate

Ms. Clark:

I'm writing to oppose the League of Cities' proposed amendment. Open public records are an essential aspect of giving the public oversight of public work.

Both in my past work as a journalist and my current work as a policy analyst for a sustainability think tank, the ability to request public records has been not only a valuable tool in its own right but also a backstop to numerous informal requests for information - "you'll have to turn this over anyway, so just send it to me please and spare us both the trouble." Exchanges like this are an implicit part of the working relationship between every beat reporter and PIO in the state.

For several years, I ran a small nonprofit magazine serving Portland transit riders. On various occasions I was able to bring new public interest stories to light that other outlets would have likely missed: a sharp drop in fare enforcement, TriMet executives getting healthy and surreptitious raises just before starting a conversation about budget cuts. Later, working for the independent website BikePortland.org, I used public records to show that ODOT's claims of public outcry over a proposed no-cost redesign to improve safety on SW Barbur had been essentially fabricated. As part of small organizations with no legal budgets, I had almost no leverage over TriMet or ODOT - they didn't even need to return my calls. The only reason they had to play ball with me was the knowledge that, even without a lawyer, I might be able to acquire enough information for a damning story even without their participation. Despite this, I encountered constant and obviously deliberate foot-dragging on record requests when I did submit them, even when the costs of compliance would have been negligible.

A strong public records regime does create some expenses for government, and the public does have an interest in keeping some internal conversations internal. But without a strong independent public records advocate, government agencies with internal agendas end up serving as their own defense, judge and jury. And this, too, can increase the costs of local government: a recent study found that the closure of a daily newspaper is correlated with a long-term drop in municipal bond ratings, presumably due to the lack of public oversight.

<https://www.brookings.edu/wp-content/uploads/2018/04/Murphy-et-al.pdf>

Please take steps to preserve and strengthen public oversight in Oregon by preserving a strong, independent public records advocate.

Michael Andersen

From: Avery Horton

Subject: ADDITIONAL PUBLIC TESTIMONY FOR JANUARY 2020 Public Records Advisory Council MEETING

If I did not send this to the right people, **you are directed to** forward this email to the right people.

PUBLIC TESTIMONY FOR JANUARY 2020 Public Records Advisory Council MEETING

You are directed to make sure my testimony is not redacted in any way, shape or form, and is included, in entirety, in the meeting minutes.

I have reviewed my public record requests for 2019 and have found most of them have not been filled. Many requests were simply ignored.

Does this committee have the authority to put an end to State Agencies ignoring public record requests?

If yes, then will this committee instruct the State Agencies to fill my requests?

If no, then who has the authority? The Governor?

Testimony respectfully submitted by,

Avery T. Horton, Jr.

Citizen, Voter, Taxpayer

State of Oregon

As always, ACTING IN INDIVIDUAL CAPACITY

From: Alan Kessler

Subject: Please do not weaken the role of the PRA or the PRAC

Dear Chair Clark:

Our last governor and his wife left office in disgrace after hiding the public's business and violating our trust. The current governor has apologized after our first Public Records Advocate ("PRA") outed her office's efforts to undermine the public's access to our records and the PRA's independence.

Now, in the wake of our former PRA's courageous departure, public bodies around the state have spent Oregonians' money on a lobbyist to prevent the reforms that Ms. McCall resigned her position to ensure. This is outrageous.

It is shameful that our public bodies are so used to operating in the shadows that they fear the sun.

The text of Mr. Winkels' proposal itself is abstruse. It is telling that this document — designed to undermine the public's access to the workings of government in general — is itself designed to conceal its own purpose.

This proposal should be roundly rejected. Please oppose any efforts to undermine the independence of the PRA or the efficacy of the Public Records Advisory Council ("PRAC"). I would respectfully request that any member of the Council supporting Mr. Winkels' efforts be asked to explain on the record how this amendment would advance the public interest.

Sincerely yours,

Alan Lloyd Kessler

From: Jenny Spinrad

Subject: Independent public records advocate

I support an independent public records advocate. Please take no action to undermine that position.

Jenny

From: Doug K
Subject: Public Records Advocate

Ms. Clark:

I support a strong, independent Public Records Advocate. I oppose the proposal to weaken the position.

Thank you.

Doug Klotz

From: Ginger McCall
Subject: Regarding the proposal of the League of Oregon Cities

Dear Members of the Public Records Advisory Council,

I am writing this letter in response to the legislative proposal of the League of Oregon Cities which is posted on the Council's website.

Last fall, as you know, I submitted my letter of resignation because I felt that the political interference I faced had made it impossible for me to accomplish the mission of the Office of the Public Records Advocate. That interference was well-documented and, eventually, was acknowledged even by the Governor. Those facts are beyond dispute. In response to the documented threats to the independence of the Office of the Public Records Advocate, this Council convened to discuss reform proposals.

There was extensive public interest in this episode. Dozens of members of the public joined the Council's meetings by phone or in person, and there was significant media presence, as well. The story was the subject of reporting across the state. The League of Oregon Cities, through its representative, Mr. Scott Winkels, had an opportunity to vigorously argue its point of view at both the Council's September and October meetings. The League's arguments - that the Advocate should not be independent - were roundly rejected by the Council in both of these meetings. The Council instead agreed - unanimously aside from Mr. Winkels' sole "nay" vote - to adopt robust independence provisions which would protect future Advocates from the kind of interference and political pressure I faced. Ensuring that the Advocate is a functioning independent office is essential to protecting both transparency and public trust. Governor Brown understands this, which is why she pledged both publicly and in a private meeting with me to support the independence of the Advocate and the proposal of the Council.

The League is now attempting to subvert this open, democratic process by pushing for the introduction of an amendment which will not only reverse all of the Council's reforms, but will, in fact, make both the Council and the Advocate weaker than they were at their creation. The League has proposed to strip all of the Council's proposed language - including explicitly removing the independence language - and also to strip the Council's ability to propose legislation and the Advocate's voting seat on the Council.

The entire purpose of this Council's creation was so that it - a diverse multi-stakeholder public body - could discuss, vet, and propose meaningful, nuanced, and well-informed reform proposals. To strip the Council of that ability and instead place it only in the position to "review, vet or endorse legislation proposed to it" would significantly and unacceptably weaken the Council at the very time that it needs to be stronger. The Council would no longer have the power to put forth its own ideas. It would instead be empowered only to review the proposals of others.

Similarly, the League's proposal to strip the Advocate of a voting seat on the Council is a counterproductive response - and in fact appears to be an attempt to punish the Office of the Public Records Advocate for my resignation. There is no other explanation for the inclusion of this provision. Stripping the Advocate of a vote silences a person who is actually working on the front lines of public records in the state. These changes will also make it very difficult to rehire for the position. Few candidates would be willing to step into this position, given its history, if they are likely to face the kind of pressure I faced.

The League should have to publicly justify these proposals - explaining to the Council and the people of Oregon why the League's proposed amendment forwards the interests of transparency and benefits the people of Oregon. Because on its face, the League's proposal looks like a plain attempt to ensure that the Council and Advocate are significantly weakened and the League's interest in secrecy is protected.

The Council serves the public. And in doing so, it is our responsibility to act in ways that forward the public trust. This is why we meet publicly, why we welcome public comment, and why we ensure that details of our proceedings are available online. The League serves only its private interests. But what the League is doing here by proposing an amendment that would gut the Council and the Advocate is exactly the kind of action which destroys public trust and breeds cynicism about government. The League, funded by taxpayer dollars and supposedly representing the interests of city government (which, themselves *should* be representing the interests of the public), is attempting to destroy a reform proposal which was publicly introduced and vetted, unanimously supported by all other members of the Council, reinforced in op-eds in newspapers around the state, and in accordance with what numerous members of the public demanded on social media, in online comments, and before this very Council.

If the League's amendment is adopted, this Council and the Advocate become, frankly, a failed experiment. This is why I am urging you to all oppose this amendment to the fullest extent of your abilities - writing about it, speaking with legislators, offering testimony to strongly support the Council's own proposal. I know that I will.

Sincerely,
Ginger P. McCall
Former Public Records Advocate

From: Joshua Baker

Subject: Please do not weaken the PRAC

Dear Chair Clark and Members of the Public Records Advisory Council,

Free, easy, and quick access to public records is key to holding our elected officials and government agencies accountable to the public and strengthen our democracy.

I am writing to object to the amendments proposed by the League of Oregon Cities' lobbyist. After Ms. McCall's resignation from the council, it became clear that more independence is needed. The proposal by Mr. Winkels is designed to weaken the body and make it less likely to create the transparency needed in Oregon's State and local public bodies.

Best,

Joshua

From: Brittany

Subject: URGENT: Oregon PRAC Council Scott Winkels

To Whom it May Concern:

I have reviewed the legislative amendments that Scott Winkels is trying to propose and I, as a member of the public, who have had very difficult experiences with getting public records (Oregon Health Authority, Yamhill County, State legislators, Oregon DHS, McMinnville School District) **is opposed to this**, to include one last month where my School District wanted to charge me \$2500 to get 937 emails.

I want to give you an example of why the Public Records Advocate must remain independent and must remain a voting member.

Late last year I spent 2 weeks compiling and documenting serious corruption regarding a particular Senator. I submitted a full Ethics Complaint to Oregon Government Ethics Commission, who is appointed and at the service of the Governor. The documents came out to being close to 1,000 pages, thoroughly tabulated and all evidence provided.

The Director of the Oregon Government Ethics Commission, whom apparently Governor Brown's attorney Misha Isaac felt worked really great to "represent the interests of the Governor", decided my ethics complaint (based on only one of the three statutes I documented) was not going to be investigated. I appealed and I have not heard a single response back.

As it stands right now I do not believe there is a single person on this committee, save for possibly Les Zaitz, that truly is a member of the "public". Every other person on this committee makes a living from Government taxpayer dollars or their associations to include Mr. Hernandez.

1. I urge the Governor and members of the Council to review the current council and add someone who is totally not conflicted by their salary, pension and benefits to be a member of the council.

2. In addition, I urge the Council to vote against Winkels proposal and to support every effort to keep the Public Records Advocate independent and a voting member of the Council.

Best regards,

Brittany Ruiz

Parental Rights' Advocate

Jan. 22, 2020

Dear members of the Oregon Public Records Advisory Council:

Oregon's records law represents Oregonians' best and often only way to learn of crucial developments that affect them. The law has led to the conviction of corrupt public officials, needed reforms, and saved the public untold millions.

Improper denials, prohibitive cost estimates and undue delays nevertheless remain common across Oregon. Our members have seen repeatedly that such behavior can reflect an effort to conceal something from the public. Polls show Oregonians know transparency is the best antidote.

For these reasons, our members believe Oregon needs a robust Records Advocate's office, one that is independent and has the ability to propose reforms. To fulfill that mission, the Advocate's office should be fully staffed with dedicated funding, similar to the Oregon Government Ethics Commission.

The Oregon Territory Chapter of the Society of Professional Journalists was part of the work group that provided input to Gov. Kate Brown regarding SB 106 during the 2017 legislative session. We sought a more independent office with clear authority, and a more diverse PRAC. That remains our recommendation today.

SPJ thanks the members of the PRAC for their hard work, and we applaud the council's efforts to bolster the Advocate to better serve Oregonians.

Rachel Alexander, President
Nick Budnick, Co-chair SPJ FOI Committee
Society of Professional Journalists, Oregon Territory Chapter

January 22, 2020

To: Public Records Advisory Council,
Chair Stephanie Clark

Re: **LC 166** - Public Records Advocate job parameters - **Support; Opposition to A1 amendment**

Members of the Public Records Advisory Council, thank you for your work for the public on government transparency issues.

Since 1997, members of the public and government officials have cooperatively led Open Oregon, a member of the National Freedom of Information Coalition, which stands for the people's access to their government's open meetings and open records. As you may know, transparency in government is one of the most universally popular issues among Oregonians.

Open Oregon is interested in seeing a free and independent Office of the Public Records Advocate. The office has already been a great boon to the state, providing important information to record seekers and record keepers alike to help navigate our state's confusing legal thicket. We would like to see the position filled by someone who can advocate for the greatest public good, promoting transparency above politics and advocating for policy fixes where they see recurring problems. We believe this is most possible with the legislative concept as originally proposed by the majority of the council, and not by the amendment proposed and submitted by the League of Oregon Cities.

Thank you for providing the opportunity for public debate on this proposal.

Shasta Kearns Moore
Vice President and Acting President, Open Oregon
A National Freedom of Information Coalition chapter

From: Tony Jordan

Subject: Please keep an independent Public Records Advocate

Chair Clark,

I am writing to express my continued support for a strong and independent Public Records Advocate.

I am concerned that an amendment proposed by Scott Winkles will undermine that independence and weaken the position. This will allow for less transparency into the workings of our government and, as a result, more opportunities for abuse and corruption.

As someone who has requested records in Portland, and run into several concerning and frustrating obstacles in that process, I greatly appreciate the work of the previous PRA Ginger McCall and I hope that an effective and independent replacement can be appointed.

Thank you,

Tony Jordan

Updated 1/22/20 12pm