



Crook County Fair Board Minutes
Special Fair Board Meeting 5:30 pm, November 4th, 2024
1280 S. Main St., Prineville, OR 97754
Telephone 541-447-6575

The special meeting of the Crook County Fair Board was called to order on November 4th, 2024, at 5:30 p.m. by Chair Gail Merritt.

ROLL CALL/BOARD MEMBERS ATTENDING

- Gail Merritt, Chair
- Mike Kasberger, Vice Chair
- Casey Kaiser
- Linda Cross
- Mike McCabe

STAFF ATTENDING

Casey Daly, Manager

GUESTS: Eric Blaine, Crook County Legal Counsel / Justin Alderman, Prineville Review

PRESENTATIONS/DISCUSSION ITEMS:

- **Complaint filed under ORS 192.705 alleging wrongdoing and violations of public meetings laws at the October 17th, 2024 meeting of the Fair Board (Eric Blaine):** The Fair Board has received a grievance regarding the special meeting on October 17th. The agenda topics were to receive public comment and to conduct Fair Board applicant interviews in an Executive Session. Mr. Alderman submitted a complaint listing a number of allegations, and a response to that complaint is due this Friday, November 8th. This meeting has been called to let the Fair Board examine that complaint and decide how to respond.
 - Letter from Justin Alderman to Eric Blaine: *“Please be aware that the Prineville Review intends to attend the Nov 4th special meeting. We also intend and expect to be present should the body go into executive session on either (2)(b) or (2)(f). This advanced notice is not of course required but is intended to avoid the potential for a contentious situation. While there has been no indication you would prevent such attendance by the Prineville Review under (2)(f), no provision would prevent us from attendance during a session under ORS 192.660(2)(f), which was recently reaffirmed by the OGE’s Executive Director in relation to an initial (and failed) attempt by the Crook County Cemetery District to deny our reporter Zack Calvo (or myself) from being present during such an executive session. A grievance submitted to the OGE is far from an indication of litigation “likely to be filed”, especially by a complainant, and holding of an executive session would, on its face, be improper under ORS 192.660(2)(b). Even so, should a formal complaint be initiated subsequent to the grievance with the OGE, actions by the OGE on violations would be against members of the governing body in their individual capacity, not against the governing or public body itself. Even if you considered that such action by the OGE would meet the standard of litigation “likely*

December 13, 2024

to be filed", county counsel likely could not represent the members of the governing body without violating ORS 244.040. See OGEC Staff Advisory Opinion No. 23-156S, July 5th, 2023 (attached), and OAR 199-040-0025. Additionally, as to the applicability of ORS 192.660(5), even if it meets the standard for an executive session, I would not be a party should the State/OGEC take any sort of legal action in subsequent "litigation" stemming from a hypothetical OGEC investigation and ruling, it would be the State/OGEC taking such action which I and our publication would not be party. The actions would also be the OGEC and the individual directors, not the public body. The entire grievance process was intended to provide a conduit for citizens and the media, as well as public bodies themselves, to address these issues in an open and transparent manner that also avoids remedies that previously could only be taken through the courts (except executive session violations which previously had been the only oversight by the OGEC). The CCFB should be addressing how they do business and operate public meetings in a public manner. Trying to again use an executive session (improperly) to shield members of a governing body from public (and even the media) on how they address these matters would be inappropriate and stink of efforts to avoid the public's attention and would likely further violate the OPML."

- Having reviewed the material and examined the laws, Eric is prepared to have a public discussion about the allegations.
- Casey Kaiser expresses that he feels comfortable having a conversation about this in a public session; his understanding was that the Court would factor in the Board's thoughts about who should fill the vacancy, and if the Board mishandled the interview process, then he would like to fix that so the Board can get back to what we are here to do. He emphasizes the obligation to have a response ready by Friday.
- Mike Kasberger expresses that he felt the Board didn't make a mistake to begin with because the Board was following direction, but with this new knowledge he wants to correct the issue and move forward as quickly as possible.
- Mike McCabe expresses that he feels awkward discussing matters in front of someone who is threatening to sue the Fair Board, and believes Executive Sessions are needed.
- Linda Cross feels that the Board should have a conversation on how to fix it, respond, and move on.
- **Public Comment:** Justin Alderman expresses that he has not made any threats to sue the Fair Board or any member of the Fair Board. The grievance process is a means for the government itself to investigate. The intention was to ensure transparency, and our hope is to be here as reporters and provide information to the public.
- **Discussion on the Complaints**
 - Mike Kasberger asks for clarification about whether volunteer Fair Board members are personally liable for potential lawsuits.
 - Eric clarifies that there are certain lawsuits that if there is an OGEC investigation under the ethics laws, the public official would not be able to receive defense from the public body because that would avoid an expense possibly incurred.
 - Mike Kasberger points out that the Commissioners did not inform the Fair Board about the decision to deny the Board's recommendation and have the Board start the interview process over; he tried to talk to a Commissioner in person 4 times to no avail.
 - 1st Complaint: *"On October 17th, 2024, the Crook County Fair Board held an executive session in violation of ORS 192.660 in order to conduct interviews and deliberations to fill a vacancy on the board. The executive session, which was initiated promptly after the start of a public meeting portion of a special meeting, was declared to be made in accordance with ORS 192.660(2)(a). However, ORS 192.660(7)(b) specifically make clear that such an executive session for this purpose is not allowed under the law."*
 - Casey Kaiser suggests acknowledging any possible violations and then acknowledging that we will be seeking any training needed. Is righting the ship doing the interviews in a public session, and making the recommendation in the public session? {Eric confirmed yes, but that there are other routes as well... The Fair Board could also say that there is good cause

to not rescind their decision and would need to present those findings. The Fair Board would need to send their written response to the complainant and the OGEC. }

- 2nd Complaint: *“On October 17th, 2024, the CCFB ceased recording audio during the executive session portion of its meeting, while audio recording the public meeting portion, and did not appear to be documenting the discussions to ensure the ability to produce even written minutes, thus giving prima facie evidence that the CCFB was not in compliance with ORS 192.650(2).”*
- 3rd Complaint: *“On October 17th, 2024, the CCFB failed to comply with ORS 192.670(3)(a) during even the course of its public meeting just prior and after its executive session, as there was no indication in the meeting agenda/notice providing for attendance by remote means to the public. Further, portions of the meeting in "executive session" which should have been open to the public under ORS 192.630 were conducted by telephone, further demonstrating no means that was not reasonably possible to provide remote attendance to the public. Additional audio/video equipment for teleconference also appeared in the room but was not utilized.”*
- 4th Complaint: *“On October 17th, 2024, the CCFB failed to comply with ORS 192.630 by continuing to discuss official matters of the CCFB and Fairgrounds operations after formally adjourning the meeting, and such discussions involved a quorum of the CCFB.”*
- On October 30th the Commissioners asked Eric to send the Fair Board a message saying that they would like the Board to rescind their decision, restart the application/interview process, and let the previous candidates know.
 - The Board discusses the possibility that if the Commissioners say they want to Board to start over again, then they won't accept the Board's recommendation and will draw out this process even more.
- Mike Kasberger motions to continue with the original recommendation for the Fair Board vacancy, Mike McCabe seconds, Linda Cross abstains, the motion carries 4-0, 1 abstaining.
- Justin Alderman points out that the Board has only really discussed one of the topics mentioned in the complaint.
 - Gail apologizes to everyone in the room for failing to record the October 17th meeting.
 - Justin Alderman asks if the Fair Board would say that Prineville Review would be in violation of Executive Session law if the publication were to release part or all of the executive session content.
 - Casey Kaiser reiterates his concern that the interviewees were under the impression that they were interviewed in privacy, and he would be hesitant to agree to release that information.
 - Eric addresses the other allegations: 3rd Allegation: about remote attendance for the public. (This is a good practice to do going forward) 4th Allegation: the Fair Board continued to talk about Fairgrounds operations after formally adjourning. (Who was talking, and about what it was about is not specified so it's difficult to discuss further)
- Mike McCabe motions to delegate authority to Gail Merritt as the Crook County Fair Board Chair to draft, sign, and submit a response on behalf of the Crook County Fair Board to the complaints submitted by Justin Alderman under ORS 192.705; Mike Kasberger seconds, Linda Cross abstains, the motion carries 4-0 with 1 abstaining.
 - Eric Blaine volunteers to help draft responses to allegations.
- Mike McCabe motions to adjourn the meeting, Casey Kaiser seconds the motion, the motion carries.

ACTION ITEM(S):

- a. The Fair Board voted to continue with its original recommendation to the County Commissioners on who should fill the Fair Board vacancy.

- b. The Fair Board voted to delegate authority to Gail Merritt to draft, sign, and submit a response on behalf of the Fair Board to the complaints submitted by Justin Alderman under ORS 192.705.

Meeting was adjourned at 7:05 p.m.

Next Regular Meeting Date: November 18th, 2024 @ 5:30 p.m.

Respectfully Submitted by:

Haley Crow

12/13/2024