

Olivia Dias

From: SARAH OWENS <hlowens2@msn.com>
Sent: Friday, October 30, 2020 9:09 AM
To: Olivia Dias
Cc: Michael Livingston
Subject: Case No. CPC-NPC-ZC-SPR-ADJ-DR20-03 for 905 and 925 Cottage St NE

Thank you for the notice that Grant has chosen to appeal the Planning Commission's decision and will have a hearing before the City Council on November 23. Please accept this as public comment for that hearing.

The applicant made significant plan amendments in response to Grant's initial objections to the project, yet Grant remains opposed to this quality affordable housing project. Why? In its notice of appeal, Grant argues that,

1. the map/zone change is NOT "equally or better suited" for the property/zone,
2. public engagement was INSUFFICIENT,
3. the multifamily use will somehow INTERFERE with neighbors' ability get on the National Register of Historic Places,
4. multifamily housing in Grant will HARM Grant more than it will benefit the community,
5. Grant's neighborhood plan says zone changes like the one at issue should be DENIED.

We walk in SCAN, CANDO and Grant every day. The property at issue sits on the boundary between CANDO and Grant. We live on Winter, a couple of blocks from the property, and walk by it several times a week. To get there, we walk one block north on Cottage to D Street, past offices, single and multifamily dwellings, and a nursing home. At the end of the block, we have a single-family home to our left, the nursing home to our right, and Evergreen Baptist Church in front of us. From a neighborhood perspective, converting this mostly empty church property to multifamily housing makes total sense.

Grant argues that the project would create a zoning "donut hole" in the middle of RS, but, in fact, it would not, as we have described above. Grant's fixation on preventing a zoning change keeps them from seeing what a beautiful project DevNW is offering the community. All they can do is argue, basically, that once an area is designated RS, it should never be changed. Grant is just anti-zone change from RS.

DevNW had an open house on its first proposal, which was substantially similar to the second, presented to at least one Grant and one CANDO meeting, and at the June Council hearing on the federal grant approval for the project. Grant hasn't alleged and cannot show they were in any way prejudiced by there not being additional public process. This is a ridiculous claim.

Grant's claim that multifamily use would have an adverse impact on property eligible for historic register designation fails for the same reasons the argument failed in the *Gaeity Hill vs Airbnb* case — namely, it's the *physical structure*, not the use that's relevant to historic register designations.

Grant offers zero authority for its claim that regional and local needs and "public interest" *outside of Grant neighborhood* — the need for affordable housing, for example — can't be considered in a zone change proceeding. This is another ridiculous claim.

Obviously, Grant just doesn't want any more multifamily housing in the neighborhood. Salem has more than a thousand unsheltered individuals living in places unfit for human habitation, and Grant is saying, in essence, too bad. It's disgraceful. It's even more disgraceful that some on the City Council encouraged Grant to appeal by exhibiting clear bias against the project during the June hearing on the federal grant approval. See ["'Progressive' Council Snuffs Affordable Housing Project"](#) (29 June 2020, *CANDO Archive*). The Oregon Government Ethics Commission even found [probable cause to investigate Councilor Kaser's conduct](#) in that business as a possible violation of ORS 244.120(2). Salem simply cannot afford to lose this project, which is a distinct possibility if Council fails to get it right on November 23. If Council kills this project again, it will send a strong message to affordable housing developers everywhere, as well as the community, that Salem doesn't care about quality affordable housing.

The Planning Commission *unanimously* found that the applicant had met its burden of showing the project meets all the necessary criteria for the map/zone change. City Council should also.

Michael Livingston
Sarah Owens
CANDO

[More](#)[Create Blog](#) [Sign In](#)

CANDO Archive

The weblog of the Central Area Neighborhood Organization in Salem, Oregon

[Home](#)[About](#)[Bylaws](#)[Board Priorities](#)[Recent Board Actions](#)[Board Positions](#)[Board History](#)

Monday, June 29, 2020

'Progressive' Council Snuffs Affordable Hsg Project

By Sarah Owens and Michael Livingston



So much for Salem's commitment to affordable housing.

The plan was to purchase Evergreen Presbyterian Church and turn it into 14 units of low-income housing with on-site management and support. Project description in the [2020-2021 Action Plan](#) at 15. *Salem Breakfast on Bikes* wrote about the plan back in [May](#).

The property sits on D Street, right at CANDO's edge, just inside the Grant

neighborhood.

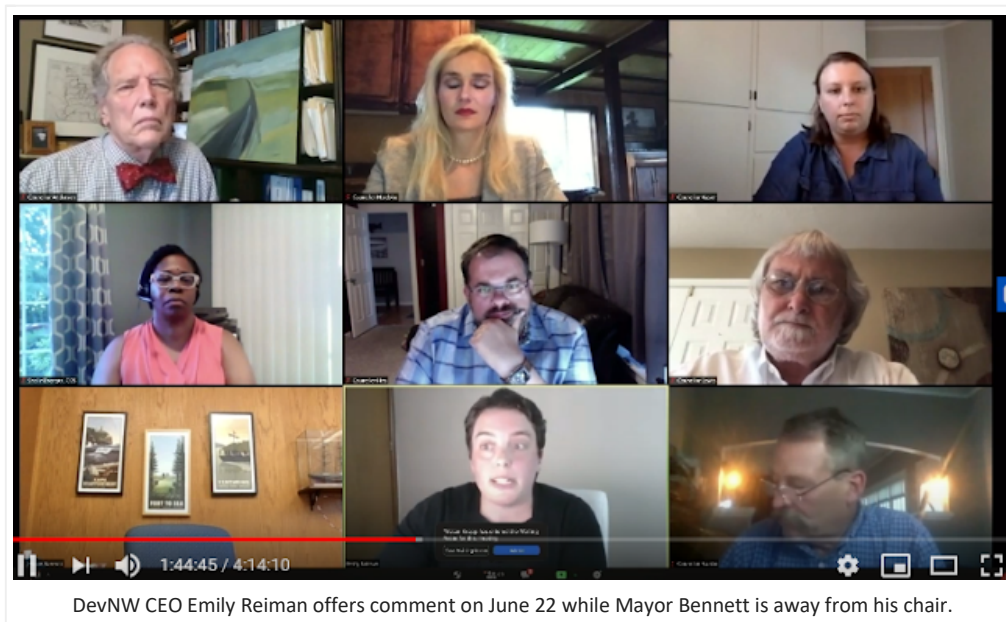
The Church has outgrown the space and is looking to move. It's not the first time Grant has felt one of its church's growing pains. See, e.g., Loew, T. "[A mega church is buying up a Salem neighborhood. Here's why.](#)" (19 August 2019, *Statesman Journal*.) ("Salem Alliance Church owns 31 properties, worth \$22.7 million, comprising part or all of eight blocks in the Grant neighborhood, north of downtown.")

Staff recommendation to Council was for the City to underwrite the purchase of the property using about \$400K in federal HOME Investment Partnership Program (HOME) funds. The developer, [DevNW](#), is Salem's only Community Housing Development Organization ([CHDO](#)) (pronounced "choh-doh"). Federal regulations require that at least 15% of the City's HOME funds be set aside for eligible CHDO activities. DevNW and the City spent many months looking for an appropriate project before deciding on the Evergreen Church location, and the project has been deemed eligible in all aspects.

With advice from City staff, DevNW is seeking to rezone the church property from RS (Single Family) to CO (Commercial Office), to allow it to use the manse as office space. DevNW currently rents an office in CANDO at 437 Union Street NE. The rezoning application is currently scheduled to go before the Planning Commission on July 21, 2020, but Council recent actions may change that.

Notwithstanding all the above, in a [June 17, 2020 letter](#) to Council, and in public comments on June 22, the Grant Land Use Committee chair asked Council to withhold funding for the project in order to prevent DevNW from attempting to rezone the property, which the Grant neighborhood believes would constitute a further "chipping away at [the neighborhood's] character", according to the letter.

During the public hearing on the Consolidated Plan/2020-2021 Annual Action Plan, DevNW CEO Emily Reiman gave a brief overview of the project and offered to answer questions.



Council Deliberates Rezoning

As Councilor Nanke would later comment, the Grant neighborhood's request that Council withhold funding for the DevNW project because of the rezoning issue was "kind of weird, in that it's throwing a land-use decision before it's been done into a Consolidated Plan."

Councilor Hoy asked Reiman about the need to convert the manse into an office, saying "seems like a real waste" given Salem's need for housing. Reiman responded that the exterior of the manse and grounds would be preserved, and that communities generally see on-site services and management "as a positive" because "we have eyes on the project, and the people living there have ready access to services", adding "that's our preference because that's what we think will provide the best experience for low-income families."

Mayor Bennett asked Reiman if she had been "informed of Council's long-term neighborhood and Council policy relative to bringing commercial office into that sort of historic older neighborhood." Reiman responded that her director of development could speak to that, but she was on vacation, however, the decision to seek the CO rezone "was made in partnership with City staff." Bennett shot back, saying, "I'm talking about the neighborhood. City staff is City staff. They do their own thing. I'm talking about the neighborhood...Did you understand how profoundly concerned they are about the changing character of that neighborhood?"

Reiman said, basically, yes, that's why DevNW was committed to preserving the manse exterior, but Bennett was dismissive, saying "The interior is an office and lobby center or something like that?" Reiman told him that DevNW offered a range of financial literacy classes and counseling, home-ownership classes and counseling, and credit-building services. Bennett asked, "Would you be entertaining legislators there, as part of a lobby effort?" Reiman replied that DevNW does engage in housing advocacy, is occasionally called to offer expert testimony at the legislature, and participates in meetings at the Oregon Department of Housing and Community Services, but those activities amount to <1% of what they do.

Bennett wanted to know if she had "researched alternative office locations nearby, in a commercial office area already." Reiman replied that their office was about four blocks away, and reiterated that "most people feel more comfortable about an affordable housing development when the property management and the owner are on site."

Councilor Kaser also asked why DevNW wanted its office on site, "and not someplace else." Reiman reiterated the importance of onsite management and services, and DevNW's commitment to encouraging property ownership, saying they'd been looking for several years for a housing project that would allow DevNW to own its own office, "and have deeper roots in the Salem community."

Kaser asked Reiman if DevNW had "pursued other zoning" like RM1 or RM2, and what the "long-term impacts" of a CO rezone "would be to the neighborhood, in terms of changing its character." Kaser said she thought DevNW wasn't willing to compromise "because you need the office." She said, "that's very concerning. It's very concerning to be using this [HOME Investment Partnership] money to build a permanent office space for you." (As noted above, the project was eligible in all aspects.)

Council also heard from Eric Bradfield, who, along with Sam Skillern, co-chairs the Grant neighborhood association. Bradfield said he lives at 934 Cottage Street NE, "just across the street from Evergreen Church and parsonage", and was "here to represent my household this evening." "The most contentious part of the project is the need for a zone and Comprehensive Plan change", he said, before arguing that Council should withhold funding for the project in order to prevent the rezone.

After a few more questions, Bennett moved to approve the Con Plan/2020-2021 Action Plan without the award to DevNW. "This one needs to go back to the drawing board, clearly" because DevNW was "unwilling to walk away from having commercial office space and plans to proceed" with the rezoning. "And I just don't want to start down that road, so I'm making the motion to just pull them out of this package. Maybe they'll rethink it." Kaser said she "completely agree[d]"

with Bennett, and that DevNW needed to look for "an area that would be compatible."

Councilor Ausec said he would not support removing the DevNW award because he thought the project was compatible with the neighborhood, comparable to the activities of the church, and noted that the Comprehensive plan had been amended numerous times. See [Comprehensive Plan](#) (adopted 1992, amended 1997, 2000, 2002, 2003, 2004, 2005, 2009, 2x in 2009, 2x in 2013, 2015) and [Grant Neighborhood Plan](#) (adopted by Grant 1979, revised 1983, adopted by City Council with exceptions 1983).

Bennett's motion passed 7-1, with Ausec voting no. Councilor Leung did not vote or participate in the discussion, having declared a conflict because she participates in a DevNW savings program.

Why Council Got it Wrong

There's a great deal not to like about this decision, but let's start with the result. This is what Jimmy Jones, Executive Director of the Mid-Willamette Valley Community Action Agency, had to say about Council's decision to eliminate the DevNW project from the 2020-2021 Action Plan:

It was unfortunate that DevNW's project wasn't approved. The community is in desperate need of affordable housing. Our limited rental stock and low vacancy rates, and high rental prices, are in large part the result of a lack of development in Salem and the surrounding communities going back to the recession of 2009. We've struggled as a community to attract affordable housing development to this area, and we are close to \$1 billion short in new development from meeting the affordable housing need. So every single unit matters. I hope that DevNW isn't discouraged, and continues to pursue the project. There's a way to do this that makes sure the community gets the project, that the neighborhood wishes are respected, and the best practice model of having onsite property management in these low-income housing models is in place.

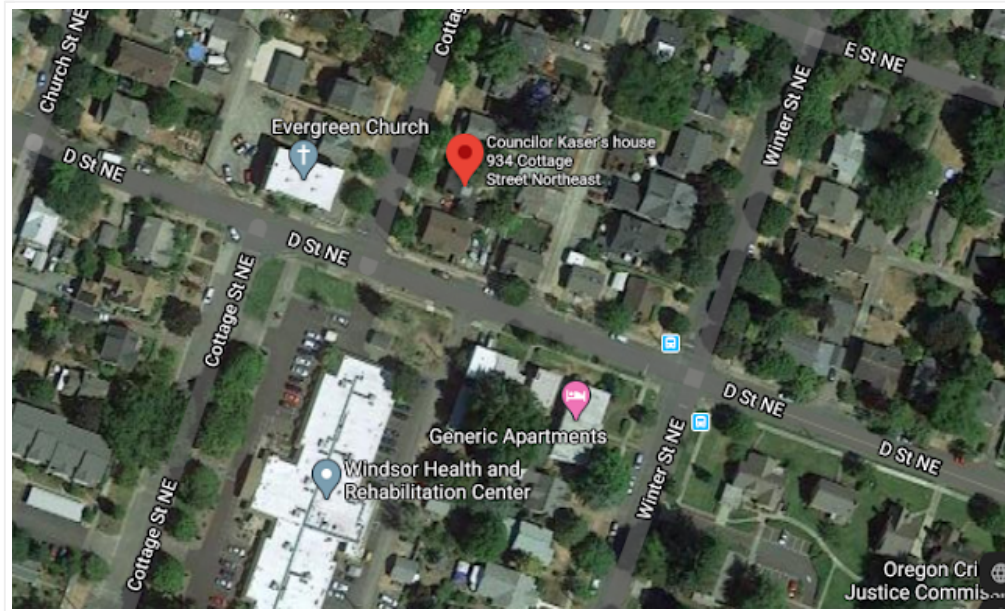
More concerning was the apparent lack of understanding of the Urban Renewal federal housing programs. It appeared that the Council came to the conclusion that there was very little post-award public process and oversight by the City of Salem with any development project financed by federal dollars, which is simply not the case. The City retains oversight over those dollars after they are awarded and has to sign off on project plans at critical junctures in the development process. I have worked with the City very closely on these projects for several years, and they do a good job of making sure everyone is held to account.

Now let's turn to the process. It wasn't just "kind of weird" for Council to decide a pending zoning (land-use) matter before it even went to the Planning Commission, it was wrong.

The issue before Council was whether or not to approve staff recommendation and adopt the Consolidated and 2020-2021 Action Plan. Any decisions to withhold a federal grant for an eligible project for which there is adequate funding *must be* demonstrably unbiased and non-arbitrary.

This is especially true when the applicant is the area's only recognized CHDO and the award is within the federally mandated set-aside. Council's decision fails this test.

First, at no point before, during, or after the public hearing did Councilor Kaser state for the record that she is married to Bradfield, and, with him, owns and occupies the house directly across from the property in question (see map below).



We asked her why she didn't disclose the information or declare a conflict. This was her response:

Per City and State ethics rules, even though I own property across the street from this site, I don't have an actual or potential conflict of interest for this specific legislative decision because a single pecuniary, or material, tangible "benefit" or "detriment" to myself or any family member is not known and speculative at best.

But it's not at all clear that Council's decision was "legislative." Decisions whether to grant or withhold HOME funds are governed by § 92.356 of the Code of Federal Regulations (among others). Even if Kaser was correct that she wasn't bound to reveal her interests by Salem Revised Code, Title 1, Chapter 12 (City ethics rules), Oregon Revised Statutes, Chapter 244 (State ethics rules), she should have considered her obligations under the applicable Federal rules. When she was asked whether she had, she declined to comment. Bradfield, Kaser's husband, argued Council should not fund the DevNW project on behalf of "my household." He did not declare Kaser to be a member of that household, and neither did Kaser. At a minimum, there is the appearance of a conflict of interest.

Second, Council's decision was in the nature of a land-use decision, rather than a legislative decision, as Councilor Kaser would have it. Land-use decisions must be on the record *in the land use proceeding*, and untainted by *ex parte* contacts and conflicts of interest. They also require that interested parties be afforded notice and an opportunity to be heard. Council's decision fails all aspects of this test.

City Councilors knew DevNW's rezone request would be at the Planning Commission July 21, because City Attorney Dan Atchison told them so during the public hearing. Council deliberately withheld funding for an eligible project in order to prevent the developer from pursuing the rezone -- a process it was legally entitled to pursue -- *because they disapproved of the zoning change and wanted to circumvent the land use proceeding*. In essence, Council's decision was a land-use decision, even though it was not properly before them, was not free from the taint of *ex parte* contacts and **conflicts of interest**, and violated DevNW's right to due process before an impartial tribunal.

Given the obvious impropriety of Council's actions and the prejudice to DevNW, one has to ask where was the City Attorney? Was he taking advantage of the virtual meeting format to play Minecraft, or catch up on other work? It is a mystery the answer to which may never be known, but one thing we do know. He should have stopped Council at the very outset and informed them they could not withhold HOME funds for an eligible project except for a *legitimate* reason, which they didn't have. He also should have told them that DevNW had every right to seek the rezone, and, as it was a land-use matter, Council should keep their views to themselves and not discuss it unless and until the matter came before Council in due course.

Fortunately for Salem, DevNW plans to appeal Council's daft decision. This is not the first time the City's been in hot water over conflicts of interest in how it makes federal funding decisions. See Bryn Nelson, T. "**City commission derailed over potential conflicts of interest**." *Salem Reporter*, 16 November 2018; Bach, J. "**Salem development commission may disband after feds raise ethics concerns**", *Statesman Journal*, 20 December 2018. And it probably won't be the last, given the astounding ignorance displayed during the public hearing.

And then there's the hypocrisy. None of those Black Lives Matter speeches (Andersen, Nordyke, Hoy, Kaser) decrying the "**crushing weight that 400 years of institutional, systemic, and personal racism has [had] on people of color**" mean a damn thing when the same so-called "progressive voices" aren't willing to do more than advocate for change. The first opportunity they had to *actually vote* against their privileged class interests in favor of housing and services for low-income families, what did they do? They voted with the NIMBYs to maintain the *status quo*. So predictable. And so Salem.

6/29/20 update: the July 21 hearing has been postponed at DevNW's request. They will now be seeking a zone change to RH (multifamily high rise residential) with proposed conditions and submit Site Plan Review and Design Review applications, to be consolidated with the zone change request. The new design eliminates the on-site management/services, adds 7 units (for a total of 21), and will require additional HOME funds. DevNW will present details of the new plan at CANDO's virtual meeting on July 21st. There will also be a presentation on the YMCA's veteran housing project.

7/8/20 update: see Harrell, S. "**Why Salem City Council nixed an affordable housing development over an office space**." (8 July 2020, Salem Reporter.) In other developments, the City has agreed to reserve the funds set aside for the Evergreen Project pending approval of the new design plan or new project plan, obviating the need for an appeal.

8/6/20 update: the minutes of the May meeting of the Grant neighborhood association -- just published -- state with reference to the Evergreen Church project, "Cara [Kaser] stated that she will recuse herself from any involvement by City Council in this process and will assist the neighborhood in its response to the land use process."

9/15/20 update: [Staff Report](#) recommended approval of zoning change and new plans. The September 21 hearing was postponed at DevNW's request. "[Grant NA Still Opposes Affordable Housing in Church Project](#)" (14 September 2020, *Salem Breakfast on Bikes*) ("On the whole the Neighborhood's opposition to the proposal, framed as an "existential threat to the existing neighborhood," is exaggerated, and the result is a NIMBY move to preserve incumbency privilege.") See also "[Incumbency Privilege in the Historic Preservation Plan at Council Monday](#)" (10 July 2020, *Salem Breakfast on Bikes*).

9/21/21 update: Oregon Government Ethics Commission found probable cause to investigate Councilor Kaser's conduct in this matter as possible violation of ORS 244.120(2).

10/6/20 update: Planning Commission unanimously approved staff recommendation as modified, except for condition 8 (trees). See "[Affordable Housing Project in 1928 German Baptist Church to Try Again at Postponed Hearing](#)." (4 October 2020, *Salem Breakfast on Bikes*.)

10/26/20 update: Grant neighborhood association [appealed the Planning Commission's approval of the DevNW project](#). City Council to hear the appeal rather than the hearings officer. See "[City Council, October 26th - German Baptist Church Decision](#)." (25 October 2020, *Salem Breakfast on Bikes*.)

Labels: [DevNW](#), [follow the money](#)

3 comments:



Unknown July 5, 2020 at 7:43 AM

Thank you, Sarah and Michael, for burrowing down into the details of this most complex council action. While I am a strong supporter of preserving housing stock in Salem, I am also an "i" dotter and "t" crosser when it comes to following rules. Confabulating future land use rules with a federal grant funding decision may be a wise preemptive effort on the part of the Grant NA, but the implications for future city-wide Salem housing stock is serious. Again, thank you for the information. Thank you for describing the potential long term unintended consequences of the June 17th Council decision.

[Reply](#)



Mark DeCoursey September 30, 2020 at 6:14 PM

Look at this analysis of student demographics at the Grant School (<https://www.greatschools.org/oregon/salem/1042-Grant-Community-School/>).

Grant Neighborhood already has a nice mix of races and cultures. According to GreatSchools.org, Grant Community Elementary School student population is

40% European,

52% Hispanic,

3% mixed race, and

2% African American. (Exhibit D)

Also note on that page, 75% of the students come from Low Income households.

As eager as you seem to be to find racism and classism, you will have to look somewhere else. This is not the neighborhood problem you are looking for. And next time, please look before slinging your invective.

[Reply](#)

Replies



Sarah Owens **October 1, 2020 at 5:31 AM**

Hey there Mark DeCoursey,

Normally, I would start by thanking you for reading the post, but it doesn't look like you did that. Maybe you meant to post on this blog? "Grant NA Still Opposes Affordable Housing in Church Project" (14 September 2020, Salem Breakfast on Bikes) ("On the whole the Neighborhood's opposition to the proposal, framed as an "existential threat to the existing neighborhood," is exaggerated, and the result is a NIMBY move to preserve incumbency privilege.") I will thank you for prompting us to update the post with the latest on the project, however.

[Reply](#)

Enter your comment...

Comment as: Google Account

[Publish](#)

[Preview](#)

[Newer Post](#)

[Home](#)

[Older Post](#)

Subscribe to: [Post Comments \(Atom\)](#)

Search This Blog

[Search](#)

CANDO Archive news

- [News from the Continuum](#)

CANDO Archive issues

- [Golden ARCHES Project](#)
- [Homeless Rental Assistance Program](#)
- [Housing First](#)
- [ROCC: Leave or Remain?](#)
- [Sobering Station](#)
- [UGM Men's Mission](#)

CANDO Archive task forces

- [Dtown Hless Solutions Task Force](#)
- [Mid Wmtte Hless Initiative Stg Ctee](#)
- [Mid Wmtte Hless Initiative Task Force](#)
- [Safe Streets & Parks Task Force](#)

CANDO Archive topics

- [beyond the annual count](#)
- [camping](#)
- [cold-weather shelters](#)
- [follow the money](#)
- [guest posts](#)
- [local media](#)
- [panhandling](#)
- [stigma](#)
- [timelines](#)
- [toilets](#)
- [voice of experience](#)
- [youth](#)

CANDO Archive chrono

- ▶ [2011](#) (1)
- ▶ [2015](#) (25)
- ▶ [2016](#) (65)
- ▶ [2017](#) (78)
- ▶ [2018](#) (64)
- ▶ [2019](#) (99)
- ▼ [2020](#) (48)
 - ▶ [Jan](#) (10)
 - ▶ [Feb](#) (12)
 - ▶ [Mar](#) (9)
 - ▶ [May](#) (4)

▼ [Jun](#) (4)

[News from the Continuum](#)

[MWV Homeless Alliance Plan Needs Work](#)

[City Extends de facto Sit-Lie Ban to September](#)

['Progressive' Council Snuffs Affordable Hsg Project](#)

► [Jul](#) (3)

► [Aug](#) (2)

► [Oct](#) (4)

CANDO Board records

- [Annual Review](#) (2)
- [Bylaws](#) (1)
- [Complaints](#) (2)
- [Finances](#) (3)
- [Minutes](#) (65)
- [Resolutions](#) (18)
- [Surveys](#) (1)

January 2019 Revision

The CANDO Archive was revised substantially in December 2018 and January 2019 to update links, add labels to facilitate searching, correct formatting, and remove outdated information. Sarah Owens and Michael Livingston

Old City Records

The CANDO Archive contains links that broke when the City "turned off" its old website on February 6, 2019. The linked documents can still be obtained through a public records request. It will help to submit a copy of the link with the request.

City Recorder: cityrecorder@cityofsalem.net

City Recorder: 503-588-6097

Make a public records request [here](#)

Disclaimer

The views expressed in individual blog posts are those of the author(s) and do not reflect the official position of the CANDO Board of Directors, unless that is specifically indicated in the blog post.

Simple theme. Powered by [Blogger](#).

CONFIDENTIAL

OREGON GOVERNMENT ETHICS COMMISSION
EXECUTIVE SESSION AGENDA

September 18, 2020

[To consider Preliminary Reviews pursuant to ORS 244.260(4)(d)].

Item

Page

EXECUTIVE SESSION CONSENT CALENDAR

Reports of Preliminary Review

(all items removed from consent calendar for discussion)

End of Executive Session Consent Calendar

OTHER ITEMS

Reports of Preliminary Review *(removed from consent calendar)*

- | | | |
|-----|---|-----|
| 38. | <u>20-168ELC</u> , Cara Kaser
City Councilor, City of Salem
Recommended Action: Move to Investigate Possible Violation of
ORS 244.120(2) [4] | 221 |
| 39. | <u>20-170ESM</u> , David McCall
City Councilor and Interim Mayor, City of Bay City
Recommended Action: Move to dismiss complaint [2] | 239 |
| 40. | <u>20-175ESM</u> , Justin Gates
City Councilor, City of Estacada
Recommended Action: Move to dismiss complaint [2] | 253 |
| 41. | <u>20-176ELC</u> , Russel Heath
Fleet Manager, Yamhill County, Public Works Department
Recommended Action: Move to dismiss complaint [2] | 259 |
| 42. | <u>20-178ESM</u> , Jackie Lawson
City Councilor, City of Dallas
Recommended Action: Move to Investigate Possible Violation of
ORS 244.040 [4] | 267 |

43. **20-179ESM**, Jo Barker
City Councilor, City of Drain
Recommended Action: Move to Investigate Possible Violation of
ORS 244.120(2) [4] 283
44. **20-182ELC**, Court Boice
Commissioner, Curry County Board of Commissioners
Recommended Action: Move to Investigate Possible Violation of
ORS 244.040(1) [4] 289

Own Motion Preliminary Reviews

None.

Other Items (*non-action informational only items*)

None.

RECONVENE REGULAR OPEN SESSION