



CITY OF BEND

M E M O R A N D U M

To: City Committee members

From: Elizabeth Oshel, Associate City Attorney

Re: Ballot Measure Advocacy

Date: January 14, 2020

Public employees are prohibited from promoting or opposing adoption of any measure, including a bond measure, while on the job during working hours. ORS 260.432. Appointed committee members are considered “public employees” for the purpose of this restriction when acting in their official capacity (during meetings of the committee, working on a duty assigned by the committee, or when appearing at an event in an official capacity).

If the City Council approves a General Obligation (G.O.) Bond, members of City committees are “public employees” while engaged in committee business, for purposes of the election advocacy restrictions. This means committee members cannot, as part of official committee duties, at meetings or on behalf of the committee, advocate for or against the passage of the G.O. Bond. Provided below are some examples of what might constitute prohibited “political advocacy.” This restriction does not prohibit committee members from expressing their personal political views.

Committee members are not prohibited from advocating for or against the G.O. Bond on their personal time. Committee members may use their titles as members of a City committee to engage in political advocacy as long as they are not acting in their official capacity (i.e., during a meeting, or as authorized by or at the direction of their City committee) when authorizing use of their title.

The prohibition begins once the ballot measure is certified to the ballot, which typically happens 7 days after City Council has passed the resolution referring the measure to the ballot. We expect City Council to consider a resolution on February 5, 2020.

Prior to the date the measure is certified to the ballot, City committee members may advocate for or against the bond measure, including at committee meetings. Once the measure is certified to the ballot, the prohibition against advocacy at meetings or in official capacity begins.

City committee members have an independent obligation to follow the restrictions on election advocacy. If any member is challenged for engaging on election advocacy as a public employee, they are responsible for their own defense.

Example: A City committee, at a meeting, may discuss **a project** that is part of the TSP short and long-term project lists, even though it is proposed for funding in the G.O. Bond. However, the committee should not discuss or reference the G.O. bond ballot measure at all after it is certified to the ballot during committee meetings.

Example: A City committee member, at their neighborhood association meeting, may discuss projects and bond funding, including the expected benefits of the projects and bond funding. The committee member may identify themselves as a committee member. This is allowable.

Example: A City committee, at a meeting, expresses its desire for members of the committee to attend neighborhood or community meetings and encourage support for the G.O. Bond measure. This is not allowable, because the committee is at a meeting and therefore acting in an official capacity in directing members to support or oppose a ballot measure.

Example: On personal time, a member of a political action committee approaches a City committee member and asks for their endorsement of the PAC's position on a G.O. Bond. The PAC member asks if they can use the committee member's title, and the member agrees. This is allowable.

Example: A member of a political action committee, attending a City committee meeting, asks the committee members for an endorsement of the PAC's position and some committee members agree. This is not allowable, because the committee members are at a meeting and therefore acting in an official capacity.

Attachments:

Restrictions on Political Campaigning by Public Employees - ORS 260.432

Quick Reference - Restrictions on Political Campaigning for Public Employees