

# OREGON GOVERNMENT ETHICS COMMISSION

## PRELIMINARY REVIEW

**CASE NO:** 25-168PJS

**DATE:** May 9, 2025

**RESPONDENT:** VARNEY, Micki, City Councilor, City of Salem

**COMPLAINANTS:** HINES, Brian; LAPINEL, Elliott

**RECOMMENDED ACTION:** Move to investigate ORS 192.630(1), ORS 192.630(2), ORS 192.640(1), and ORS 192.650(1), OAR 199-050-0020(1) and (2); OAR 199-050-0015(4)

**PRELIMINARY REVIEW:** The Oregon Government Ethics Commission (Commission) received a signed written complaint from Brian Hines on March 12, 2025, alleging that Micki Varney, City Councilor for the City of Salem, along with the other members of the Salem City Council, may have violated provisions of Oregon Public Meetings Law. A similar complaint was submitted by Elliott Lapinel on March 17, 2025. For the purpose of this preliminary review, we will refer to both complaints collectively as the “Complaint”. (#PR1, #PR2). Receipt of the Complaint was acknowledged in letters to Micki Varney, Brian Hines, and Elliott Lapinel. Micki Varney was provided with the information received in the Complaint and invited to provide any information that would assist the Commission in conducting this preliminary review.

### Complaint

The Complaint alleges that Mayor Julie Hoy and the seven other members of Salem City Council violated Oregon Public Meetings Law by engaging in prohibited serial communication. The Complaint states that Julie Hoy had individual conversations with a majority of the City Councilors, discussing whether Keith Stahley should be asked to resign from his position as City Manager for the City of Salem (City). (#PR1).

Keith Stahley resigned from his role as City Manager on February 9, 2025, stating he

1 was informed that a majority of City Councilors wanted him to resign. Included with the  
2 complaint is Keith Stahley's resignation letter, which states:

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4 I am submitting this resignation based on a meeting that I had with Councilor  
5 Nishioka on Friday February 7, 2025, where she represented that she was the  
6 duly authorized representative of the Mayor and a majority of City Council and  
7 requested that I tender my resignation. (#PR3).

8  
9 The Complaint asserts that the City Council did not hold a public meeting to discuss  
10 matters related to Keith Stahley's continued employment with the City, and it alleges  
11 that members of the City Council engaged in prohibited serial communications to force  
12 him to resign. (#PR1).

13  
14 Grievances and Response

15 The Complaint included copies of the grievances submitted to the City of Salem by  
16 Elliott Lapinel on February 14, 2025 and Brian Hines on February 15, 2025, alleging  
17 violations of Oregon Public Meetings Law. (#PR1, #PR4). The City of Salem responded  
18 to both grievances with a single email on March 7, 2025. (#PR5). The City's grievance  
19 response denies that a quorum of the City Council used a series of communications to  
20 deliberate toward a decision. It states that Mayor Julie Hoy asked other City Councilors  
21 about their opinions on Keith Stahley's performance, and she expressed her concerns  
22 with the Councilors. It also states that several of the City Councilors explained to Julie  
23 Hoy that they did not have enough information to form an opinion. The grievance  
24 response asserts that Julie Hoy did not act as an intermediary, stating:

25  
26 [I]n order for the Mayor to have served as an intermediary, and therefore create a  
27 serial meeting, the Mayor would have had to share information about councilor  
28 views amongst a quorum of the Council. \* \* \* [A]t no time did five councilors  
29 utilize the Mayor as an intermediary to deliberate towards or make a decision  
30 related to the former City Manager's employment with the City. Even if it is true  
31 that the Mayor informed Council President Nishioka that a majority of the  
32 councilors believed the former City Manager should consider resigning, thereby

1 causing deliberations to occur between the Council President and the Mayor,  
2 such information would have been shared by the Mayor with only one member of  
3 the council, well below the quorum level of five or the multiple members required  
4 by the definition of intermediary. (#PR5).

5  
6 Response

7 In a written response received on April 9, 2025, Jill Gibson, legal counsel for Julie  
8 Hoy, denies that a quorum of the City Council deliberated toward, or made, a  
9 decision through serial communications. (#PR6).

10  
11 The response states that, between February 1st and February 14th, 2025, Julie  
12 Hoy reached out to each City Councilor to have one-on-one conversations about  
13 a recently completed City leadership audit. Julie Hoy, “told the councilors that in  
14 light of the information in the audit, the Council may need to ask for [Keith  
15 Stahley’s] resignation.” The response states that Julie Hoy did not share City  
16 Councilors’ feelings about Keith Stahley with other Councilors, and she did not  
17 ask how the individual Councilors would vote. The response states that Julie  
18 Hoy’s conversations with the other City Councilors were purely factual in nature,  
19 sharing information about the audit and Keith Stahley’s performance, and telling  
20 them that they would “need to address this issue” at a public meeting. The  
21 response denies that Julie Hoy told Councilor Nishioka that a majority of City  
22 Councilors wanted Keith Stahley to resign, and states that Keith Stahley was  
23 never asked to resign. The response states that Councilor Nishioka went to Keith  
24 Stahley on her own accord, and she let him know the City Council “would be  
25 looking into the matter” of his work performance. The response states that after  
26 this conversation with Councilor Nishioka, Keith Stahley chose to resign. (#PR6).

27  
28 Salem City Attorney Statement

29 On February 15, 2025 the City of Salem released a statement from City Attorney Dan  
30 Atchison concerning Keith Stahley’s resignation. Dan Atchison states that prior to Mayor  
31 Julie Hoy’s individual communications with members of City Council concerning Keith  
32 Stahley’s performance and potential separation from the City, she consulted with him,

1 and he advised her that one-on-one conversations with City Council members would not  
2 violate Oregon Public Meetings Law. (#PR7).

3  
4 Dan Atchison states that even though Councilor Nishioka spoke on the phone with  
5 Mayor Hoy, Councilor Nishioka never claimed to be the City Council's "duly authorized  
6 representative" or implied that she was speaking on behalf of the City Council when she  
7 asked Keith Stahley if he would consider resigning. Dan Atchison emphasizes that Keith  
8 Stahley was only eligible for severance benefits if the City Council asked him to resign,  
9 or if he was terminated. Dan Atchison states, "Stahley used that exact language  
10 apparently because it was consistent with the language in his employment agreement  
11 concerning his eligibility for severance, not because Nishioka ever uttered those words."  
12 (#PR7).

#### 13 14 Communications

15 In a text message sent to Councilor Micki Varney, Councilor Linda Nishioka stated that,  
16 prior to speaking with Keith Stahley, Julie Hoy told her that a majority of the City Council  
17 was in favor of his resignation. Linda Nishioka stated she asked City Attorney Dan  
18 Atchison if she could verify with the other City Councilors whether they, in fact, wanted  
19 Keith Stahley to resign, but she was told not to contact other City Councilors. Councilor  
20 Varney added that she had received "calls from other [City C]ouncilors and it seems that  
21 Julie [Hoy] said the same thing to everyone. The majority of the [C]ouncilors wanted  
22 Keith [Stahley] to resign." (#PR8).

23  
24 In a text message to Deputy City Manager Krishna Namburi on February 10, 2025,  
25 Linda Nishioka stated that Julie Hoy told her that all City Councilors, with the exception  
26 of Councilor Vanessa Nordyke, wanted Keith Stahley to resign. (#PR9).

#### 27 28 February 10, 2025 Executive Session

29 During an executive session meeting held on February 10, 2025, several City  
30 Councilors expressed concerns with a lack of transparency in what one City Councilor  
31 identified as a "behind the scenes decision" to ask Keith Stahley to resign. Mayor Hoy  
32 explained that she "touched base" with each of the City Councilors to have a "dialogue"

1 about the current state of the city manager position. Mayor Hoy stated that she “did not  
2 have these conversations to count votes,” and she did not ask anyone to advise Keith  
3 Stahley to resign. (#PR10).

4  
5 **RECOMMENDATIONS:** Micki Varney is a City Councilor for the City of Salem and held  
6 that position during the period relative to this review. As such, Micki Varney is a public  
7 official as defined by ORS 244.020(15). The City is a public body and the City Council is  
8 its governing body. [ORS 192.610(5) and (6)]. As a member of the governing body of a  
9 public body, Micki Varney is required to comply with the provisions of Oregon Public  
10 Meetings Law found in ORS 192.610 to ORS 192.705.

11  
12 ORS 192.610(7)(a) states that a “meeting” means the convening of a governing body of  
13 a public body for which a quorum is required in order to make a decision or to deliberate  
14 toward a decision on any matter. Salem City Charter defines a quorum as “a majority of  
15 the Council.” During the period relevant to this review, there were eight members on the  
16 City Council including the Mayor; therefore, a quorum constitutes five members.

17  
18 “Convening” means: “(a) Gathering in a physical location; (b) Using electronic, video or  
19 telephonic technology to be able to communicate contemporaneously among  
20 participants; (c) Using serial electronic written communication among participants; or (d)  
21 Using an intermediary to communicate among participants.” [ORS 192.610(1)]. An  
22 intermediary is “a person who is used to facilitate communications among members of a  
23 governing body about a matter subject to deliberation or decision by the governing body,  
24 by sharing information received from a member or members of the governing body with  
25 other members of the governing body. The term “intermediary” can include a member of  
26 the governing body.” [OAR 199-050-0005(7)].

27  
28 ORS 192.630(1) requires that all meetings of a governing body “shall be open to the  
29 public and all persons shall be permitted to attend any meeting” except as otherwise  
30 provided in the Public Meetings Law.

31 ///

1 ORS 192.610(3) defines “deliberation” as discussion or communication that is part of a  
2 decision-making process. “Decision-making process” means the process a governing  
3 body engages in to make a decision, such as: (a) identifying or selecting the nature of  
4 the decision to be made; (b) gathering information related to the decision to be made; (c)  
5 identifying and assessing alternatives; (d) weighing information; and (e) making a  
6 decision. [OAR 199-050-0005(4)].

7  
8 Finally, ORS 192.690(1)(m) provides that the public meetings law does not apply to  
9 certain communications between or among members of a governing body, provided they  
10 are: “[p]urely factual or educational in nature and that convey no deliberation or decision  
11 on any matter that might reasonably come before the governing body; [n]ot related to  
12 any matter that, at any time, could reasonably be foreseen to come before the governing  
13 body for deliberation and decision; or [n]onsubstantive in nature, such as communication  
14 relating to scheduling, leaves of absence and other similar matters.”

#### 15 16 Prohibited Serial Communications

17 OAR 199-050-0020(1) prohibits serial communications among a quorum of governing  
18 body members and provides: “ A quorum of the members of a governing body shall not,  
19 outside of a meeting conducted in compliance with the Public Meetings Law, use a  
20 series of communications of any kind, directly or through intermediaries, for the purpose  
21 of deliberating or deciding on any matter that is within the jurisdiction of the governing  
22 body.” Subsection (2) lists the methods of communications, whether used individually or  
23 in combination, that would constitute prohibited serial communications: “in-person;  
24 telephone calls; videos, videoconferencing, or electronic video applications; written  
25 communications, including electronic written communications, such as email, texts, and  
26 other electronic applications; use of one or more intermediaries to convey information  
27 among members; and any other means of conveying information.”

28  
29 The information available in this preliminary review indicates that between February 1,  
30 2025 and February 14, 2025, Mayor Julie Hoy had a series of individual conversations  
31 with a majority of the City Council through text messages, phone calls, and in-person  
32 meetings. These conversations included discussions of the City’s leadership audit, City

1 Manager Keith Stahley's performance, and his continued employment with the City—  
2 each of which is a topic within the jurisdiction of the City Council. It further appears that  
3 during these conversations Julie Hoy was gathering information from City Councilors  
4 that could be used by the City Council to make a decision about Keith Stahley's ongoing  
5 employment with the City. The information also indicates that Julie Hoy may have  
6 weighed this information and determined that a majority of the City Council was in favor  
7 of Keith Stahley's resignation. It appears that Julie Hoy may have then shared this  
8 determination with multiple members of the City Council, including Council President  
9 Linda Nishioka. Finally, it appears that, following her receipt of this information, Council  
10 President Nishioka may have informed Keith Stahley that a majority of City Councilors  
11 wanted him to resign, before asking him to consider submitting a letter of resignation.  
12 By discussing Keith Stahley's performance and his possible resignation with multiple  
13 City Councilors, and by potentially telling multiple City Councilors, including Council  
14 President Nishioka, that a majority of other City Councilors wanted Keith Stahley to  
15 resign, , it appears that Julie Hoy may have acted as an intermediary through whom the  
16 City Council convened through in violation of the requirements of public meetings law.

17  
18 The evidence in this case indicates that the communications Julie Hoy had with City  
19 Councilors do not fall within the exceptions set forth in ORS 192.690(1)(m). The  
20 communications were not "purely factual" and instead conveyed deliberation or  
21 decisions that "might reasonably come before the governing body." At the time the  
22 communications were made, it was reasonably foreseen that the matter of the City  
23 Manager's performance could come before the governing body for deliberation and  
24 decision. Finally, the communications were substantive. Therefore, it is also clear that  
25 the communications come within the public meetings law and not exempted under ORS  
26 192.690(1)(m).

27  
28 The City's grievance response states that Julie Hoy did not act as an intermediary  
29 because she only shared City Councilor views with one other member of City Council,  
30 Linda Nishioka, and she did not share Councilor views amongst a quorum of the City  
31 Council. Despite this contention, evidence in this preliminary review suggests that Julie  
32 Hoy may have shared City Councilor views with multiple members of City Council. See

1 #PR8 (text message from Councilor Micki Varney to Council President Nishioka).

2  
3 More importantly, even if Julie Hoy only shared City Councilor views with Council  
4 President Nishioka, it still appears that she had private conversations with a quorum of  
5 governing body members to deliberate toward a decision within the City's jurisdiction. A  
6 person acts as an intermediary when they facilitate communications about a matter from  
7 one governing body member to other governing body members. On each occasion Julie  
8 Hoy communicated with individual City Councilors to share her concerns about Keith  
9 Stahley, and to ask about their positions on his performance, information was shared  
10 between members of the City Council, and this information was related to a decision  
11 within the jurisdiction of the City Council. These discussions about Keith Stahley's  
12 performance and possible resignation appear to have been a part of the City Council's  
13 decision-making process. And, indeed, these discussions culminated in the City Council  
14 President having a conversation with Keith Stahley that resulted in Keith Stahley  
15 submitting a resignation letter. The information in this preliminary review indicates that  
16 this series of communications likely constitutes a "meeting," as a quorum of City  
17 Councilors were "convening" through an intermediary in order to deliberate toward a  
18 decision. As these deliberations did not occur in a public meeting, it appears the Council  
19 violated ORS 192.630(1).

20  
21 Public Notice

22 ORS 192.640(1) requires governing bodies to provide public notice of meetings, stating:

23  
24 The governing body of a public body shall provide for and give public notice,  
25 reasonably calculated to give actual notice to interested persons including news  
26 media which have requested notice, of the time and place for holding regular  
27 meetings. The notice shall also include a list of the principal subjects anticipated  
28 to be considered at the meeting, but this requirement shall not limit the ability of a  
29 governing body to consider additional subjects.

30  
31 Because the City Council is a governing body for the purposes of Public Meetings Law,  
32 the public meeting and notice requirements in 192.640(1) apply. When the City Council



1 convened through an intermediary outside of public meetings, they did not publicly notice  
2 these meetings or make them available to the public. Therefore, it appears that the City  
3 Council may have failed to comply with the public meeting notice requirements in ORS  
4 192.640(1).

#### 6 Meeting Minutes

7 ORS 192.650(1) provides “the governing body of a public body shall provide for the  
8 sound, video or digital recording or the taking of written minutes of all its meetings. \* \* \*  
9 All minutes or recordings shall be available to the public within a reasonable time after  
10 the meeting. \* \* \*”

11  
12 It does not appear that the Salem City Council followed these requirements when they  
13 convened through an intermediary, and as a result, it appears the City Council may have  
14 violated ORS 192.650(1).

#### 16 Meet in Private

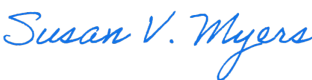
17 The public meetings law also provides that “[a] quorum of a governing body may not  
18 meet in private for the purpose of deciding on or deliberating toward a decision on any  
19 matter...” [ORS 192.630(2)]. “The legislature intended the broad language of ORS  
20 192.630(2) (‘may not meet in private’) to reach some decision-making of a governing  
21 body that does not occur in a ‘meeting.’” [TriMet v. ATU, 362 Or 484, 497 (2018)]. OAR  
22 199-050-0015(4) further explains that “[a] private meeting where a quorum of a  
23 governing body engages in discussions or communications that are part of the  
24 governing body’s decision-making process on matters within the authority of the  
25 governing body violates the Public Meetings Law.” To the extent that communications  
26 among the quorum of the Salem City Council does not constitute a “meeting” it may  
27 constitute a “meet in private” under ORS 192.630(2). Additionally, the communications  
28 appear to constitute a quorum of a governing body engaging discussions or  
29 communications that are part of the governing body’s decision-making process on  
30 matters within the authority of the governing body. Therefore, to the extent that the  
31 Salem City Council conducted a “meet in private” they may have violated ORS  
32 192.630(2) and OAR 199-050-0015(4).

1 Based on the information available in this preliminary review, there appears to be a  
2 substantial, objective basis for believing that Micki Varney and the other members of the  
3 Salem City Council may have violated provisions of Oregon Public Meetings Law. The  
4 Oregon Government Ethics Commission should move to investigate whether Micki  
5 Varney may have engaged in prohibited serial communications and thereby violated  
6 ORS 192.630(1), ORS 192.630(2), ORS 192.640(1), and ORS 192.650(1), OAR 199-  
7 050-0020(1) and (2); OAR 199-050-0015(4). (Motion 4).

8  
9 **ASSOCIATED DOCUMENTS:**

10 #PR1 Blog PDF Complaint submitted 3/12/2025  
11 #PR2 Elliott Lapinel Complaint submitted 3/17/2025  
12 #PR3 Stahley Resignation Letter dated 2/9/2025  
13 #PR4 Lapinel Grievance on 2/14/2025  
14 #PR5 Salem Grievance Response to Both Complaints on 3/7/2025  
15 #PR6 Julie Hoy Response received 4/9/2025  
16 #PR7 Salem City Attorney's Statement on 2/15/2025  
17 #PR8 Varney\_Nishioka Text Messages received 3/24/25  
18 #PR9 Nishioka\_Namburi Text Messages received 3/24/2025  
19 #PR10 Executive Session Meeting on 2/10/2025

PREPARED BY *Joshua J. Sullivan*, Investigator  5/9/2025

APPROVED BY *Susan V. Myers*, Executive Director  5/9/2025

REVIEWED BY *Daniel R. Gilbert*, Senior Assistant Attorney General Authorized on 5/9/2025