



LEGAL DEPARTMENT

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Via Email: prestopoole@proton.me

August 28, 2026

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RE: Public Meetings Law Grievance II – July 13, 2026

Dear John Poole:

Pursuant to ORS 192.705, the City of Salem (“City”) acknowledges receipt of the public meeting law grievance you filed on August 10, 2026. Your grievance alleges that the City violated ORS 192.640 when it “provided no notice that the Council would consider whether to approve, accept, ratify, disaffirm, or otherwise acquiesce in the City’s execution and performance of the Verrus NDA[]” during the July 13, 2026, Salem City Council (“Council”) meeting. Specifically, your grievance references comments made by City Manager Krishna Namburi (“City Manager”) during the “Council and City Manager Comment” portion of the Council meeting regarding the Verrus data center proposal and the related nondisclosure agreement. You allege that the Council “...considered and acted upon a matter within its jurisdiction without notice as required by ORS 192.640.”

As further explained below, pursuant to ORS 192.705(2)(b)(A), the City denies that the facts and circumstances set forth in your grievance accurately reflect the conduct of the City and Council during the July 13, 2026, Council meeting. Accordingly, the City denies that this constituted a violation of the public meeting laws.

1. Factual Background

The City typically holds Council meetings on the second and fourth Mondays of each month. City Council Rule 4(a). For the July 13, 2026, Council meeting, the City published the agenda on July 9, 2026. Agenda Item 1.2 is listed as “Council and City Manager Comment.” This portion of the Council meeting is meant for Council or the City Manager to comment on any item of public interest. City Council Rule 5(g).

The City was released from the nondisclosure agreement on Wednesday, July 8, 2026. On Friday, July 10, 2026, the City Manager decided to speak publicly about the proposal at the July 13, 2026 City Council meeting. There was no anticipation that the City Manager would comment on the proposal until July 10, 2026, after the agenda had been published. As the City Manager explained to the Salem Reporter, there was insufficient time to prepare a formal informational report on the data

center proposal in the time between when the decision was made to publicly comment upon the data center proposal and the subsequent Council meeting on Monday, July 13, 2026.¹

Given these time constraints, the City Manager elected to present introductory information about the data center proposal during the “Council and City Manager Comment” portion of the July 13, 2026, Council meeting. During her comments, the City Manager explained some of the context of the proposal and the mechanics of the nondisclosure agreement. She explicitly noted that, “the City is evaluating the proposal. We’re not advocating for or approving it right now.”² She then stated that, should the proposal move forward, it would be reviewed through standard City processes. Upon the City Manager concluding her remarks, the Council did not discuss or ask questions about the City Manager’s comments, nor did the City Manager request that any formal action be taken.

2. Analysis

This grievance makes multiple assumptions to allege a violation of Oregon Public Meetings Law. For example, it assumes that the City Manager lacked authority to execute the nondisclosure agreement, then assumes that the Council’s lack of deliberation or formal action was an implied decision to ratify the City Manager’s actions.³ Even accepting these inferences as accurate, for this grievance to meet the prima facie elements of a public meeting violation under Oregon law, the Council would have had to anticipate the City Manager’s comments regarding the data center proposal and anticipate that it would make a decision regarding the nondisclosure agreement. In this case, as the grievance notes, there was no specific public notice of the City Manager’s comments and Council could not have anticipated them, nor anticipated making a decision on the matter, even an implied decision as alleged in the grievance.

Further, even if the City Council wanted to consider or actually act upon the execution of the nondisclosure agreement, the City was already released from it prior to July 13, 2026, Council meeting and any decision by Council to ratify the NDA would have been moot.

ORS 192.640 provides:

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

The grievance argues that Council, by simply listening to the City Manager’s comments, made a decision to ratify the City Manager’s execution of the NDA. That argument is unsupported by the record at the meeting, where Council was not asked to weigh in on the City Manager’s actions, no motions were made, no votes taken, and no discussion by occurred by City Council regarding the City Manager’s comments. Here, no decision, implied or otherwise, was made by Council regarding the nondisclosure agreement. No violation of ORS 192.640 occurred, because no decision was made.

¹ Joe Siess, *Salem residents can comment on data center at July 27 Salem City Council meeting*, Salem Reporter, July 17, 2026, <https://www.salemreporter.com/2026/07/17/salem-residents-can-comment-on-data-center-at-july-27-salem-city-council-meeting/> (last accessed August 26, 2026).

² Capital Community Media, *City of Salem Council Meeting July 13, 2026* (YouTube, July 13, 2026), at 22:20, https://www.youtube.com/watch?v=7uG_6Ov9Vzw (last accessed August 26, 2026).

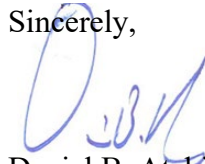
³ See “2026-08-10 Grievance II” at 2-5, 10-11.

As explained in response to Mr. Poole's first public meeting law grievance, attached hereto as Exhibit 1, the City Manager's comments concerning the Verrus data center proposal and related nondisclosure agreement were not "principal subjects anticipated to be considered at the meeting" and therefore no notice was required. It follows that notice was not required for the "decision" that this grievance assumes was made. Finally, the nondisclosure agreement was terminated prior to the July 13, 2026, Council meeting, and any Council decision on the agreement supposedly taken at that meeting would have been moot.

3. Conclusion

Based upon the above information, the City has concluded that no violation of Oregon's public meeting laws occurred. Pursuant to ORS 192.705(4), a copy of your written grievance and this response will be provided to the Oregon Government Ethics Commission.

Sincerely,



Daniel B. Atchison
City Attorney

Encl.

cc: OGEC, via email only mail@ogec.oregon.gov



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RE: Public Meetings Law Grievance I – July 13, 2026

Dear John Poole:

Pursuant to ORS 192.705, the City of Salem (“City”) acknowledges receipt of the public meeting law grievance you filed on August 7, 2026. Your grievance alleges that the City of Salem violated ORS 192.640 when it failed to provide public notice regarding the principal subjects anticipated to be considered at the July 13, 2026, Salem City Council (“Council”) meeting. Specifically, your grievance references comments made by City Manager Krishna Namburi (“City Manager”) during the “Council and City Manager Comment” portion of the July 13, 2026, Council meeting regarding the Verrus data center proposal.

As further explained below, the City acknowledges that the July 13, 2026, agenda did not specifically identify the Verrus proposal as a subject of the City Manager’s comments. The City denies, however, that such notice was required by ORS 192.640.

The City Manager did not decide to comment publicly on the proposal until July 10, 2026, after the Council agenda had been published. Given the timing and the growing community interest in the proposal, the City Manager shared information about the proposal during the “Council and City Manager Comment” portion of the meeting. The City Manager’s comments were informational in nature. She did not request Council action, and the Council did not deliberate toward or take any action regarding the proposal. Accordingly, the City denies that the failure to specifically identify the Verrus proposal on the July 13, 2026, agenda constituted a violation of Oregon’s public meetings law.

1. Factual Background

The City typically holds Council meetings on the second and fourth Mondays of each month. City Council Rule 4(a). For the July 13, 2026, Council meeting, the City published the agenda publicly on July 9, 2026. Agenda Item 1.2 is listed as “Council and City Manager

Comment.” Under City Council Rule 5(g), this portion of the Council meeting provides an opportunity for Council or the City Manager to comment on any item of public interest.

During the July 13, 2026, Council meeting, the City Manager provided a brief update on the status of the Verrus data center proposal. She noted that the City was previously under a nondisclosure agreement regarding the terms of the proposal but was released from the agreement during the week preceding the meeting.

The City was released from the nondisclosure agreement on Wednesday, July 8, 2026. On Friday, July 10, 2026, the City Manager informed Verrus that she planned to speak publicly about the proposal. Therefore, there was no anticipation that the City Manager would comment on the proposal until July 10, 2026, after the Council agenda has been published. As the City Manager explained to the Salem Reporter, there was insufficient time to prepare a formal informational report on the data center proposal in the time between when the decision was made to publicly comment upon the data center proposal and the subsequent Council meeting on Monday, July 13, 2026.¹

Given these time constraints, the City Manager elected to present introductory information about the data center proposal during the “Council and City Manager Comment” portion of the July 13, 2026, Council meeting. During her comments, the City Manager explained some of the historical context of the proposal and the mechanics of the nondisclosure agreement. She explicitly noted that, “the City is evaluating the proposal. We’re not advocating for or approving it right now.”² She then stated that, should the proposal move forward, it would be reviewed through standard City processes. Upon the City Manager concluding her remarks, the Council continued onto Agenda Item 1.3 – Proclamations. The City Manager did not request that any action be taken on the data center proposal, nor did the Council review, deliberate, or vote upon anything contained within the City Manager’s comments.

As the Salem Reporter noted, “City spokesman Rob Layne described the current phase of discussions as a ‘pre-application’ process and said community engagement on the matter will follow.”³ The City Manager also emphasized that public comment would be crucial to any future data center project, noting that the City was “...accepting opinions 24/7 through email...”⁴ In line with these comments, the City included an informational report concerning the data center proposal on the Council’s July 27, 2026, meeting agenda.⁵

¹ Joe Siess, *Salem residents can comment on data center at July 27 Salem City Council meeting*, Salem Reporter, July 17, 2026, <https://www.salemreporter.com/2026/07/17/salem-residents-can-comment-on-data-center-at-july-27-salem-city-council-meeting/> (last accessed August 26, 2026).

² Capital Community Media, *City of Salem Council Meeting July 13, 2026* (YouTube, July 13, 2026), at 22:20, https://www.youtube.com/watch?v=7uG_6Ov9Vzw (last accessed August 26, 2026).

³ Joe Siess, *UPDATED: Salem discloses proposed Mill Creek data center project after city released from NDA*, Salem Reporter July 14 2026, <https://www.salemreporter.com/2026/07/14/salem-discloses-proposed-mill-creek-data-center-project-after-city-released-from-nda/> (last accessed August 26, 2026).

⁴ See Siess, *supra* note 1.

⁵ Agenda – City Council Jul. 27, 2026, at § 5.1, <https://pub-salem.escribemeetings.com/FileStream.ashx?DocumentId=496> (last accessed August 26, 2026).

For the July 27, 2026, Council meeting, the City received more than 650 pages of written testimony from citizens and conducted more than five hours of public comment, with the meeting not concluding until 12:45 a.m. on July 28, 2026.⁶ The City also scheduled and provided public notice of a Special Council Meeting on August 3, 2026, specifically concerning data centers; the City received more than 350 additional pages of written testimony from citizens and conducted more than three hours of additional public comment.⁷

2. Analysis

ORS 192.640 provides:

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

The July 13, 2026, Council meeting agenda provided detailed information on the principal subjects to be discussed during the meeting, including resolutions, ordinances, action items, informational reports, and upcoming public hearings.⁸ The City Manager’s comments concerning the Verrus data center proposal were neither a “principal subject” of the meeting, nor was it anticipated that the Council would “consider” those comments by deliberating toward or actually making a decision regarding those comments. The agenda also included Agenda Item 1.2, “Council and City Manager Comment,” pursuant to City Council Rule 5(g), which provides for comments by Councilors and the City Manager on any item of public interest.

ORS 192.640 gives express authority to governing bodies to consider additional subjects that are not included in the meeting notice. Here, the data center proposal became a topic of public interest in the week preceding the July 13, 2026, Council meeting and it was not until July 10, 2026, that any decision was made by the City Manager to comment on the proposal at the July 13, 2026, Council meeting. The City Manager’s comments were in recognition of the public interest in the subject and were intended to inform the public and the Council regarding the facts and important context concerning the issue.

“Principal” is not defined in ORS Chapter 192, but is commonly defined to mean “most important, consequential, or influential”.⁹ When it became apparent on or around July 10, 2026, that the data center proposal was of considerable public interest and having the City Manager

⁶ City Council Meeting Agendas and Minutes, <https://www.cityofsalem.net/government/city-council-mayor/city-council-meetings/city-council-meeting-agendas-and-minutes> (last accessed August 26, 2026).

⁷ *Id.*

⁸ Agenda – City Council Jul. 13, 2026, <https://pub-salem.escribemeetings.com/FileStream.ashx?DocumentId=419> (last accessed August 26, 2026).

⁹ See “Principal,” *Merriam-Webster Online Dictionary* (2026), <https://www.merriam-webster.com/dictionary/principal> (last accessed August 26, 2026).

comment on the proposal at the next Council meeting was advisable, the subject was not among the principal subjects for the Council to consider at that meeting.

Subjects like the City Manager's comments at the July 13, 2026, Council meeting, are precisely the reason that ORS 192.640 allows governing bodies to discuss topics that are not listed on the meeting notice. Here, interest in the subject arose late in the week preceding the Council meeting, and after the agenda was published. No action by the Council regarding the City Manager's comments was anticipated or actually taken, and the purpose of the City Manager's comments was simply to convey facts and context to the public and Council on a subject of significant interest to both.

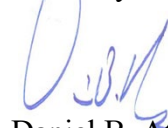
3. Conclusion

Public notice of the specific topics discussed during the "Council and City Manager Comment" portion of the July 13, 2026, Council meeting was not provided prior to the meeting due to insufficient time and because the notice was not required under ORS 192.640. The City Manager did not decide to make any comments regarding the data center proposal until July 10, 2026.

The City Manager provided background information to the Council and the public on an issue that is important to the community. Her comments were not the principal subject of the July 13, 2026, Council meeting. Council did not deliberate toward nor take any action on the subject of the City Manager's comments at the meeting. The City's subsequent actions further demonstrate the distinction between July 13th informational comments and the City's later formal considerations of data center issues. The City subsequently provided public notice of a formal presentation concerning data centers, collected approximately 1,000 pages of citizen comments, and heard approximately 8 hours of public comment at the July 27, 2026, and August 3, 2026, Council meetings.

Based upon the above information, the City has concluded that no violation of Oregon's public meeting laws occurred. Pursuant to ORS 192.705(4), a copy of your written grievance and this response will be provided to the Oregon Government Ethics Commission.

Sincerely,



Daniel B. Atchison
City Attorney

cc: OGE, *via email only* mail@ogec.oregon.gov