GOVERNMENT STANDARDS AND PRACTICES COMMISSION

MINUTES

April 12, 2002

(Tape 1A, .1)
Chair Katherine Tennyson called the April 12, 2002 meeting of the Government Standards and Practices Commission to order at 9:35 a.m. The meeting was held in the court administrator's conference room on the first floor of the Marion County Courthouse in Salem, Oregon. Other commissioners present were Roger McCorkle, Ed Golobay, John Schoon, and John Kopetski. Alice Schlenker participated by telephone. Dave Moss was excused from attendance. Staff in attendance were Executive Director Pat Hearn, Investigators Don Crabtree and Jim Pons, and Executive Assistant Virginia Lutz. GSPC Counsel Lynn Rosik was present. New commission appointee Carl Visintainer and Legislative Fiscal Analyst Adrienne Sexton were present to observe the proceedings.

(Tape 1A, .2)
Tennyson noted that Schoon's term of service was about to expire and that this would be his last meeting. There were comments of appreciation regarding his service to the commission.

(Tape 1A, .5)
AGENDA ITEMS 1 and 2, Approval of the minutes of the February 28, 2002 workshop and the March 1, 2002 meeting. Tennyson called for approval of the minutes of the February 28, 2002 workshop and the March 1, 2002 meeting. The minutes were approved without comment.

CONSENT CALENDAR

Reports of Investigations

(Tape 1A, 1.0)
Agenda items 3, 4, 5 and 11 were removed from the consent calendar for discussion or for appearance of parties wishing to address the commission.

(Tape 1A, 1.3)
AGENDA ITEMS 3, 4, & 5 LaPine Rural Fire Protection District Board of Directors – Supplemental Report

No. 01-170XDC, Liz Smith. Ms. Smith was not present.
No. 01-171XDC, Bob Buscher. Mr. Buscher was not present.
No. 01-172XDC, Alice Bowden. Ms. Bowden was not present.

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Chief Jim Court of the LaPine RFPD was present to address the commission and thank them for extending the investigation to allow Investigator Crabtree to conduct additional interviews of board members. Mr. Stu Martinez was also present to address the commission. Schoon moved that the commission find that the information before the commission is insufficient to infer a violation of ORS Chapter 244 or warrant further investigation and that this complaint be dismissed. Roll call vote was taken as follows: Schoon, aye; Schlenker, aye; Kopetski, aye; Golobay, nay; McCorkle, aye; Tennyson, aye. Motion passed 4 – 1.

(Tape 1A, 4.2)
AGENDA ITEM 11, No. 01-198EDC, Clifford Wooten, Linn County Commissioner. Mr. Wooten was not present but was represented by counsel James Delapoer. Complainant John Ramirez was present and addressed the commission. Counsel Delapoer addressed the commission. McCorkle moved that the commission find that the information before the commission is insufficient to infer a violation of ORS Chapter 244 or warrant further investigation and that this complaint be dismissed. Roll call vote was taken as follows: Schoon, aye; Schlenker, aye; Kopetski, aye; Golobay, aye; McCorkle, aye; Tennyson, aye. Motion passed unanimously.

(Tape 1A, 9.9)
The GSPC convened into executive session at 9:45 a.m. to consider preliminary reviews pursuant to ORS 244.260(6)(c) and to consult with legal counsel regarding pending litigation pursuant to ORS 192.660(1)(h).

EXECUTIVE SESSION CONSENT CALENDAR

Reports of Preliminary Review

(Executive Session Not Recorded)
AGENDA ITEM 42, No. 02-113EDC, Stan Bunn, Superintendent of Public Instruction. Mr. Bunn was present with counsel John DiLorenzo. Investigator Crabtree summarized the case. Mr. Bunn and Mr. DiLorenzo addressed the commission and suggested that Mr. Bunn's daughter had accompanied him as his assistant. Counsel Rosik commented that the GSPC has previously issued numerous staff and advisory opinions addressing the issue of payments of travel expenses for relatives of public officials. DiLorenzo suggested seeking a declaratory ruling regarding the interpretation of the related statute. Schoon discussed the guest v. family member issue and whether expenses paid for a guest can be shown as an expense on the public official's Statement of Economic Interest. Schlenker moved that the commission find that there is a substantial, objective basis for believing that Stan Bunn may have violated ORS 244.040(1)(a) and that the commission should investigate accordingly. Roll call vote was taken as follows: Schoon, aye; Schlenker, aye; Kopetski, aye; Golobay, nay; McCorkle, aye; Tennyson, nay. Motion passed 4 – 2.

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Kopetski moved that the commission find that there is a substantial, objective basis for believing that Stan Bunn may have violated ORS 244.110(2) and that the commission should investigate accordingly. Roll call vote was taken as follows: Schoon, aye; Schlenker, nay; Kopetski, aye; Golobay, nay; McCorkle, nay; Tennyson, nay. Motion failed 2 – 4.

AGENDA ITEM 43, No. 02-118EDC, Stan Bunn, Superintendent of Public Instruction. Mr. Bunn was present with counsel John DiLorenzo. Schoon moved that the commission find that the complaint and information before the commission do not indicate a violation of ORS Chapter 244 or warrant further review and that this complaint be dismissed. Roll call vote was taken as follows: Schoon, aye; Schlenker, aye; Kopetski, aye; Golobay, aye; McCorkle, aye; Tennyson, aye. Motion passed unanimously.

The GSPC recessed from 10:50 a.m. to 10:56 a.m.

AGENDA ITEM 47, No. 02-123EJP, Therese Morris, Lincoln City Planning Commission Member. Ms. Morris was present with counsel Andrew Jordan. Investigator Pons summarized the case. Counsel Jordan addressed the commission and suggested that the allegations do not meet the "but for" test. Ms. Morris addressed the commission regarding city bidding issues and processes. Schlenker moved that the commission find that there is a substantial, objective basis for believing that Therese Morris may have violated ORS 244.040(1)(a), 244.120(2)(a), and 244.135 and that the commission should investigate accordingly. Roll call vote was taken as follows: Schoon, aye; Schlenker, aye; Kopetski, aye; Golobay, aye; McCorkle, aye; Tennyson, aye. Motion passed unanimously.

McCorkle moved that the commission find that the complaint and information before the commission do not indicate a violation of ORS 244.110(2) or warrant further review and that this issue of the complaint be dismissed. Roll call vote was taken as follows: Schoon, aye; Schlenker, aye; Kopetski, aye; Golobay, aye; McCorkle, aye; Tennyson, aye. Motion passed unanimously.

AGENDA ITEM 48, No. 02-125EJP, Dan Arriola, La Grande School District No. 1 Superintendent. Mr. Arriola was not present but was represented by counsel Nancy Hungerford. Investigator Pons summarized the case. Counsel Hungerford addressed the commission and there was a discussion regarding school practices and the trip cancellation. McCorkle moved that the commission find that the complaint and information before the commission do not indicate a violation of ORS Chapter 244 or warrant further review and that this complaint be dismissed. Roll call vote was taken as follows: Schoon, aye; Schlenker, aye; Kopetski, aye; Golobay, aye; McCorkle, aye; Tennyson, aye. Motion passed unanimously.

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(Tape 1A, 10.2)
The GSPC reconvened into open session at 11:45 a.m.

(Tape 1A, 10.5)
AGENDA ITEM 16, No. 186EDC, Roy Kent, Councilor, City of Lyons. Mr. Kent was present with counsel Teunis Wyers. Investigator Crabtree summarized the case. Counsel Wyers addressed the commission. McCorkle moved that the commission find that there is sufficient evidence to find a violation of ORS Chapter 244, if this evidence is not rebutted by contrary evidence, and that this public official be offered a contested case proceeding. Roll call vote was taken as follows: Schoon, nay; Schlenker, aye; Kopetski, nay; Golobay, nay; McCorkle, aye; Tennyson, aye. Motion failed 3 – 3.

Schoon moved that the commission find that the information before the commission is insufficient to infer a violation of ORS Chapter 244 or warrant further investigation and that this complaint be dismissed. Roll call vote was taken as follows: Schoon, aye; Schlenker, aye; Kopetski, aye; Golobay, aye; McCorkle, aye; Tennyson, aye. Motion passed unanimously.

CONSENT CALENDAR

Reports of Investigations

(Tape 25.8)
Agenda Item 15 was removed from the consent calendar for discussion.

McCorkle moved for approval of the balance of the consent calendar and the staff recommended action on each as follows:

AGENDA ITEM 6, No. 01-181XDC, William H. Hatt, Mayor, City of Lyons. Mr. Hatt was not present. The recommendation was that the commission find that the information before the commission is insufficient to infer a violation of ORS Chapter 192.660 or warrant further investigation and that this complaint be dismissed.

AGENDA ITEM 7, No. 01-182XDC, Roy Kent, Councilor, City of Lyons. Mr. Kent was not present. The recommendation was that the commission find that the information before the commission is insufficient to infer a violation of ORS Chapter 192.660 or warrant further investigation and that this complaint be dismissed.

AGENDA ITEM 8, No. 01-183XDC, Tom Basey, Councilor, City of Lyons. Mr. Basey was not present. The recommendation was that the commission find that the information before the commission is insufficient to infer a violation of ORS Chapter 192.660 or warrant further investigation and that this complaint be dismissed.

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AGENDA ITEM 9, No. 01-184XDC, Jeff Branch, Councilor, City of Lyons. Mr. Branch was not present. The recommendation was that the commission find that the information before the commission is insufficient to infer a violation of ORS Chapter 192.660 or warrant further investigation and that this complaint be dismissed.

AGENDA ITEM 10, No. 01-185XDC, Mike Rolow, Councilor, City of Lyons. Mr. Rolow was not present. The recommendation was that the commission find that the information before the commission is insufficient to infer a violation of ORS Chapter 192.660 or warrant further investigation and that this complaint be dismissed.

AGENDA ITEM 12, No. 01-208EJP, Mirna Arellano, Motor Vehicles Division Transportation Services Representative. Mr. Arellano was not present. The recommendation was that the commission find that the information before the commission is insufficient to infer a violation of ORS Chapter 244 or warrant further investigation and that this complaint be dismissed.

Stipulated Final Orders

The recommendation was that the commission approve the proposed stipulated final order as the final order in each matter an that the chairperson be authorized to sign each as such.

AGENDA ITEM 13, No. 01-142EDC, Jean Ann Pendergrass, Tigard-Tualatin School District employee. Ms. Pendergrass was not present.

AGENDA ITEM 14, No. 01-160EJP, Sherlene Bowen, Chenowith Water Peoples Utility District. Ms. Bowen was not present.

Default Final Orders

None.

Roll call vote was taken as follows: Schoon, aye; Schlenker, aye; Kopetski, aye; Golobay, aye; McCorkle, aye; Tennyson, aye. Motion passed unanimously.

End of Consent Calendar

(Tape 1A, 26.5)
AGENDA ITEM 15, No. 01-189EJP, Gary Schelske, Clackamas River Water Control District employee. Mr. Schelske was not present. There was discussion regarding the settlement terms and Kopetski suggested that the settlement be amended to include no penalty. Golobay moved for approval of the stipulated final order as presented. Roll call vote was taken as follows: Schoon, nay; Schlenker, aye; Kopetski, nay; Golobay, aye; McCorkle, aye; Tennyson, aye. Motion passed 4 – 2.

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CONTESTED CASE PROPOSED FINAL ORDERS

None.

REPORTS OF INVESTIGATION

(Tape 1A, 32.6)
AGENDA ITEM 17, No. 01-210EJP, Jacqueline Asher, Former Motor Vehicles Division Transportation Services Representative. Ms. Asher was not present. McCorkle moved that the commission find that there is sufficient evidence to find a violation of ORS Chapter 244.040(1)(a), if this evidence is not rebutted by contrary evidence, and that this public official be offered a contested case proceeding. Roll call vote was taken as follows: Schoon, aye; Schlenker, aye; Kopetski, aye; Golobay, aye; McCorkle, aye; Tennyson, aye. Motion passed unanimously.

The GSPC convened into executive session at 12:10 p.m. to consider preliminary reviews pursuant to ORS 244.260(6)(c) and to consult with legal counsel regarding pending litigation pursuant to ORS 192.660(1)(h).

EXECUTIVE SESSION CONSENT CALENDAR

Reports of Preliminary Review

Items 45 and 46 were removed from the consent calendar for discussion or appearance of parties wishing to address the commission.

(Executive Session Not Recorded)
AGENDA ITEM 46, No. 02-122EDC, Karen MacFarlane, Former St. Helens Library Manager. Ms. McFarlane was not present but was represented by counsel Martin Dolan. Investigator Crabtree summarized the case. Mr. Dolan addressed the commission regarding library policies and the appearance of personnel conflicts. Schlenker moved that the commission find that the complaint and information before the commission do not indicate a violation of ORS Chapter 244 or warrant further review and that this complaint be dismissed. Roll call vote was taken as follows: Schoon, aye; Schlenker, aye; Kopetski, aye; Golobay, aye; McCorkle, aye; Tennyson, aye. Motion passed unanimously.

Golobay moved approval of the balance of the consent calendar items and the staff recommended action on each as follows:

AGENDA ITEM 41, No. 02-112EDC, Sherry L. Liedke, Motor Vehicles Division Transportation Services Representative. The recommendation was that the commission find that there is a substantial, objective basis for believing that Sherry L. Liedke may have violated ORS 244.040(1)(a) and that the commission should investigate accordingly.

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AGENDA ITEM 44, No. 02-120EJP, Guy Weishaar, La Grande School Board Member. Mr. Weishaar was not present. The recommendation was that the commission find that there is a substantial, objective basis for believing that Guy Weishaar may have violated ORS 244.040(1)(a) and 244.120(2)(a) and that the commission should investigate accordingly.

AGENDA ITEM 49, No. 02-132EDC, John B. Ruiz, Jr., Former Marion County Sheriff's Office Supervisor. Mr. Ruiz was not present. The recommendation was that the commission find that there is a substantial, objective basis for believing that John Ruiz may have violated ORS 244.040(1)(a) and that the commission should investigate accordingly.

AGENDA ITEM 50, No. 02-133EJP, Chris S. Williams, Former Executive Director, Commission on Hispanic Affairs. Mr. Williams was not present. The recommendation was that the commission find that there is a substantial, objective basis for believing that Chris Williams may have violated ORS 24.4040(1)(a) and that the commission should investigate accordingly.

Roll call vote was taken as follows: Schoon, aye; Schlenker, aye; Kopetski, aye; Golobay, aye; McCorkle, aye; Tennyson, aye. Motion passed unanimously.

End of Executive Session Consent Calendar

Chair Tennyson left at 2:30 p.m. and vice-chair Schlenker deferred the gavel to John Schoon for the balance of the meeting.

AGENDA ITEM 45, No. 02-121EJP, Gifford Barnes, Port of Port Orford Commissioner. Mr. Barnes was not present. McCorkle questioned Investigator Pons regarding the case facts and the commission briefly discussed the issues. Schlenker moved that the commission find that the complaint and information before the commission do not indicate a violation of ORS Chapter 244 or warrant further review and that this complaint be dismissed. Roll call vote was taken as follows: Schoon, nay; Schlenker, aye; Kopetski, nay; Golobay, nay; McCorkle, nay. Motion failed 1 – 4.

McCorkle moved that the commission find that there is a substantial, objective basis for believing that Gifford Barnes may have violated ORS 244.120 on the 9/28/98 issue only and that the commission should investigate accordingly. Roll call vote was taken as follows: Schoon, aye; Schlenker, aye; Kopetski, aye; Golobay, nay; McCorkle, aye. Motion passed 4 – 1.

OTHER PERLIMINARY REVIEWS

None.

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OTHER ITEMS

Review of Pending Litigation
Counsel Rosik presented a brief overview of the status of pending litigation.

AGENDA ITEM 51, Summary of Pending Cases
The GSPC reviewed the list of pending cases without comment.

(Tape 1A, 34.8)
The GSPC reconvened into open session at 12:45 p.m.

(Tape 1A, 35.0)
AGENDA ITEM 39, Request for further clarification or withdrawal of Advisory Opinion No. 01A-1003. Hearn summarized the history of the opinion. John Nelson of the City/County Managers Association and Greg Baker and Genoa Ingram of the Special Districts Association were present to address the commission. There was discussion of the possible effects of the opinion on officials involved with budget negotiations as part of their official duties. The parties suggested that they collaborate to develop alternative language to offer to the commission. Schlenker moved that Advisory Opinion No. 01A-1003 be rescinded with the caveat that the associations work with the director to develop new language within 90 days. Roll call vote was taken as follows: Schoon, aye; Schlenker, aye; Kopetski, aye; Golobay, aye; McCorkle, aye. Motion passed unanimously.

ADVISORY OPINIONS

None.

CORRESPONDENCE RECEIVED/RESPONSES

Lobbying Entity Penalty Correspondence

(Tape 2A, 10.5)
AGENDA ITEM 18, Mitchell Rofsky of Triple E, Inc.
The commission reviewed and discussed the correspondence submitted and elected not to reduce or eliminate the accrued penalty.

Staff Opinions

(Tape 2A, 13.0)
The commission reviewed the following correspondence items:

AGENDA ITEM 19, No. 02S-004 addendum, Tina Frostad re councilor conflict with spouse's neighborhood association appeal to council.

AGENDA ITEM 20, No. 02S-006, Sandra Ramaker re utility district board member conflict with being spouse of district employee who also serves as union steward.

AGENDA ITEM 21, No. 02S-007, Susan Hiller re recruiting board members for new commission from county fair board members or employees.

AGENDA ITEM 22, No. 02S-008, Doug Thompson re actions a mayor, a business owner, may take on issues affecting another major business in the area.

AGENDA ITEM 23, No. 02S-009, Joyce Everts re employee asked by CPA to assist in designing and developing a program to be marketed by the CPA.

AGENDA ITEM 24, No. 02S-010, Elizabeth Thornton re personnel of certain fire districts receiving free lunches from Applebees upon nominations made by listeners of a radio station.

AGENDA ITEM 25, No. 02S-011, Steven Swenson re ESD director responding to questions about acquiring a disc of music performed during personal time and also about a district staff member providing training in crisis response at a community college.

Other Correspondence

AGENDA ITEM 26, No. 02-109ENJ, Clark I. Balfour re Kevin Sicard of the Dept. of Employment.

AGENDA ITEM 27, No. 02-126EAI, Wayne Schjoll re the city of Madras mayor, Rick Allen.

AGENDA ITEM 28, No. 02-127EAI, Robert Habas re various officials of the city of St. Helens.

AGENDA ITEM 29, No. 02-128ENJ, Bhagwati P. Poddar re the Clatsop County Commissioners.

AGENDA ITEM 30, No. 02-134EAI, Anne Prenick re the Bend Metro Park Recreation Board.

AGENDA ITEM 31, No. 02-135EAI, Victor Musial re Michael Call and Paul Raines of the Estacada School District.

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AGENDA ITEM 32, No. 02-137EAI, Paul B. Meadowbrook re Jennifer Moisa of the Dept. of Human Resources.

AGENDA ITEM 33, No. 02-143EAI, Judith L. Weeks re Charles Graham of the city of North Bend.

AGENDA ITEM 34, Richard Jethro re victim's rights.

AGENDA ITEM 35, Dwayne Wier re implementation of an in-house dialysis unit.

AGENDA ITEM 36, Lyle Coultas re the Oregon State Crime Lab and Yamhill officials.

AGENDA ITEM 37, Thank you letter to director Hearn from Oregon School Boards Association for presentation.

MISCELLANEOUS ITEMS

(Tape 2A, 13.5)
AGENDA ITEM 38, Correction to minutes of the November 28, 2001 commission meeting. McCorkle moved for approval of the minutes correction. Roll call vote was taken as follows: Schoon, aye; Schlenker, aye; Kopetski, aye; Golobay, aye; McCorkle, aye. Motion passed unanimously.

(Tape 2A, 14.7)
AGENDA ITEM 40, Discussion re budget constraints and the status of the strategic planning project. The commission briefly discussed the strategic planning issue and temporarily suspended further development due to budget constraints.

(Tape 2A, 18.5)
Commissioner Schoon welcomed new commissioner Carl Vistintainer and made some farewell comments to the commission.

(Tape 2A, 19.7)
Commissioner Schoon adjourned the meeting at 1:10 p.m.

The next scheduled meeting of the Oregon Government Standards and Practices Commission is set for Friday, May 31, 2002 at 9:30 a.m. in the Court Administrator's Conference Room on the first floor of the Marion County Courthouse.

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