

OREGON GOVERNMENT ETHICS COMMISSION

MEETING MINUTES

November 20, 2009

9:00 a.m.

(Tape 1A, 0.1)

Chair Charles Beggs called the meeting to order at 8:59 a.m. The meeting was held in the 2nd Floor Conference Room of the Morrow Crane Building at 3218 Pringle Rd SE, Suite 220, Salem, Oregon. Other Commissioners present were Kenneth Lewis, Larry Campbell, Joann Waller, Gary Wilhelms, and Heather VanMeter. Staff present were Executive Director Ron Bersin, Investigator Don Crabtree, Investigator Deborah Tuss, Trainer Tammy Hedrick, Trainer Lindsay Bassler, Program Analyst Virginia Lutz, Administrative Specialist Andrea Williams, and OGEC Counsel Lynn Rosik.

(Tape 1A, 1.0)

AGENDA ITEM 1, Approval of the October 2, 2009 meeting minutes. Campbell suggested the addition of all of the 2010 Commission meeting dates to Item 37 on the October 2, 2009 meeting minutes. The Commission approved the minutes with the noted corrections.

(Tape 1A, 1.7)

Lewis requested that the September 9, 2010 meeting be changed to September 10, 2009. The Commission voiced no objection to the change.

CONSENT CALENDAR

(Tape 1A, 2.8)

Items 2, 3, 5, 7, 9, 12, 13, 14, 17, 18, and 19 were removed from the consent calendar for comment.

(Tape 1A, 4.3)

Lewis moved for the approval of the balance of the consent calendar and the staff recommendation on each as follows:

Reports of Investigation

None.

Statement of Economic Interest Penalty Correspondence

The staff recommendation on each of the following was to issue a letter of education:

The parties in the following items were not present except where noted.

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AGENDA ITEM 4, Jeff McKeown, Coos Bay Mayor

Lobbying Client/Employer Penalty Correspondence

The staff recommendation on each of the following was to issue a letter of education:

The parties in the following items were not present except where noted.

AGENDA ITEM 6, EIMA, 2nd quarter 2009

AGENDA ITEM 8, Harris Stratex, 2nd quarter 2009

AGENDA ITEM 10, Northwest Log Truckers Cooperative, 2nd quarter 2009

AGENDA ITEM 11, The PEW Charitable Trusts: Our Ocean Coalition Project, 1st quarter 2009

Lobbyist Penalty Correspondence

The staff recommendation on each of the following was to issue a letter of education:

The parties in the following items were not present except where noted.

AGENDA ITEM 15, Matthew Smith, 2nd quarter 2009

AGENDA ITEM 16, William Street, 2nd quarter 2009

Consent calendar roll call vote was taken as follows: Campbell, aye; Lewis, aye; Van Meter, aye; Waller, aye; Beggs, aye. Motion passed unanimously.

End of Consent Calendar

DEFAULT FINAL ORDERS

None.

CONTESTED CASE PROPOSED FINAL ORDERS

None.

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REPORTS OF INVESTIGATIONS

(Tape 1A, 5.1)

AGENDA ITEM 21, No. 08-230EDT, Ed Royce Smith, former Executive Director of Curriculum, Reynolds School District. Mr. Smith and his legal counsel, James Brown, were both present. Hedrick summarized the case. Mr. Brown and Mr. Smith addressed the Commission. Mr. Brown requested that the Commission defer judgment until two other similar cases are settled. The Commission discussed the case. (Tape 1A, 32.8) Wilhelms joined the meeting. Van Meter moved that the Commission find that there is sufficient evidence to find 3 violations of ORS Chapter 244.040(1)(a) by Ed Royce Smith, 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: Waller, aye; Wilhelms, aye; Campbell, aye; Lewis, aye; Van Meter, aye; Beggs, aye. Motion passed unanimously. The Commission generally discussed mitigating circumstances and suggested leniency in the proposed penalties.

Stipulated Final Orders

(Tape 1B, 3.8)

AGENDA ITEM 3, Wayne Travillion, Executive Director of Human Resources, Reynolds School District. The Commission discussed the penalty matrix. Hedrick summarized the case. Campbell moved that the Commission approve the proposed stipulated final order as the final order in this matter and that the Chairperson be authorized to sign it as such. Roll call vote was taken as follows: Lewis, aye; Van Meter, aye; Waller, aye; Wilhelms, aye; Campbell, aye; Beggs, aye. Motion passed unanimously.

(Tape 1B, 9.2)

The Commission convened into executive session at 9:58 a.m. to consider preliminary reviews pursuant to ORS 244.260(4)(d) and to consult with legal counsel regarding pending litigation pursuant to ORS 192.660(2)(h).

Reports of Preliminary Review

(Tape 1B, 11.0)

AGENDA ITEM 36, No. 09-168EDT, Lisa D. Smith, Director, Lane County Department of Youth Services. Ms. Smith was present. Crabtree summarized case and provided the Commission with additional information received after the notebook was organized. Crabtree noted corrections to the investigative report. The Commission discussed the case. Van Meter moved that the Commission find that there is a substantial, objective basis for believing that Lisa D. Smith may have violated ORS 244.040(1) or ORS 244.040(1)(a) and that the Commission should investigate accordingly. Roll call vote was taken as follows: Wilhelms, nay; Campbell, nay; Lewis, aye; Van Meter, aye; Waller, aye; Beggs, aye. Motion passed 4-2.

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(Tape 1B, 41.1)

AGENDA ITEM 34, No. 09-161EDC, John D. Aarons, Casework Supervisor, Lane County Department of Youth Services. Mr. Aarons was present. Crabtree summarized the case. Mr. Aarons addressed the Commission. Van Meter moved that the Commission find that there is a substantial, objective basis for believing that John D. Aarons may have violated ORS 244.040(1)(a) or ORS 244.040(1) and that the Commission should investigate accordingly. Roll call vote was taken as follows: Campbell, nay; Lewis, aye; Van Meter, aye; Waller, aye; Wilhelms, nay; Beggs, aye. Motion passed 4-2.

(Tape 2A, 21.1)

AGENDA ITEM 37, No. 09-170EDC, Timothy M. Evinger, Sheriff, Klamath County Sheriff's Office. Mr. Evinger was present. Crabtree summarized the case. Mr. Evinger addressed the Commission. Van Meter moved that the Commission find that there is a substantial, objective basis for believing that Timothy M. Evinger may have violated ORS 244.025 or ORS 244.040(1) and that the Commission should investigate accordingly. Roll call vote was taken as follows: Campbell, aye; Lewis, aye; Van Meter, aye; Waller, aye; Wilhelms, aye; Beggs, aye. Motion passed unanimously.

(Tape 2A, 45.0)

The Commission recessed at 11:20 a.m. and reconvened into regular session at 11:30 a.m.

MISCELLANEOUS ITEMS

(Tape 2B, 0.1)

AGENDA ITEM 30, Administrative Rules Review. Bersin summarized process and opened the hearing for comments.

(Tape 2B, 9.2)

Scott Winkels with the League of Oregon Cities addressed the Commission with comments regarding the following:

Division 5 – 199-005-0003

(4) definitions

(2)(d) employee who commits

Division 1 – 199-001-0015

(3) Table A, years as a public official or lobbyist 10 yr > = 3

Mr. Winkels submitted his comments to the Commission in writing.

(Tape 2B, 27.2)

Matt Markee with the Capitol Club addressed the Commission with comments regarding the following:

Division 1 – 199-001-0015

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(3) Table A, years as a public official or lobbyist 10 yr > = 3.
The Commission requested that Mr. Markee submit his comments in writing.

(Tape 2B, 41.3)

Martha Pelligrino with the City of Portland addressed the Commission with comments regarding the following (Tape 3A, 0.1):

Division 5 – 199-005-0003

(2)(a-c) “decision”

(2)(d) employee who commits

(4)(d) “meeting”

(4)(e) “official capacity”, participating

(4)(g) attend

(5) definitions

Division 1 – 199-001-0015

(3) Table B, values assigned to certain factors

(Tape 3A, 11.5)

Genoa Ingram addressed the Commission on behalf of Paul Snider with the Association of Oregon Counties with comments regarding the following:

Division 1 – 199-001-0014

(b) could be a distinct violation

General comments regarding the matrix

Division 20 – 199-020-0005

(2) special districts

(Tape 3A, 19.6)

Nori Cross with the State Court Administrator’s Office addressed the Commission with comments regarding the following:

Division 1 – 199-001-0015

General comments

Ms. Cross provided the Commission with a revised list of comments.

(Tape 3A, 21.5)

Alison Kean Campbell with Metro addressed the Commission with comments regarding the following:

Division 5 – 199-005-0003

(2) “decision”

(2)(a-e) add clause to say “and which decision is connected to the sources of economic interests”

(Tape 3A, 37.3)

The Commission recessed at 1:00 p.m. for a short break and reconvened into regular session at 1:19 p.m. Van Meter excused for remainder of meeting.

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(Tape 3A, 37.6)

The Commission briefly discussed administrative rule comments received.

Stipulated Final Orders

(Tape 3B, 34.6)

AGENDA ITEM 2, No. 08-128EDT, Gideon Jackson, Board of Directors, Yoncalla School District. Mr. Jackson was not present. Bersin summarized the case. Campbell moved that the Commission approve the proposed stipulated final order as the final order in this matter and that the Chairperson be authorized to sign it as such. Roll call vote was taken as follows: Waller, aye; Wilhelms, aye; Campbell, aye; Lewis, aye; Beggs, aye. Motion passed unanimously.

Statement of Economic Interest Penalty Correspondence

(Tape 3B, 39.7)

AGENDA ITEM 5, Robert Williams, Tri-Met Board. Campbell moved to change staff recommendation from a letter of education to a \$50 penalty with a letter of education. Roll call vote was taken as follows: Lewis, aye; Waller, aye; Wilhelms, aye; Campbell, aye; Beggs, aye. Motion passed unanimously.

Lobbyist and Lobbying Client/Employer Penalty Correspondence

(Tape 3B, 43.0)

Campbell moved to issue a letter of education for each of the following items:

AGENDA ITEM 7, Fund Our Future Oregon, 1st quarter 2009

AGENDA ITEM 12, Fund Our Future Oregon, 2nd quarter 2009

AGENDA ITEM 14, Suzie Kabeiseman, 1st quarter 2009

AGENDA ITEM 17, Nancy Sullivan, 1st quarter 2009

AGENDA ITEM 18, Suzie Kabeiseman, 2nd quarter, 2009

AGENDA ITEM 19, Nancy Sullivan, 2nd quarter 2009

(Tape 4A, 0.1)

Tape changed. Roll call vote was taken as follows: Campbell, aye; Lewis, aye; Waller, aye; Wilhelms, temporarily absent; Beggs, aye. Motion passed unanimously.

(Tape 4A, 0.3)

Campbell moved to approve the staff recommendation on the following items:

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AGENDA ITEM 9, Invenergy Wind North America, LLC, 4th quarter 2008
Staff recommendation was to issue a letter of education.

AGENDA ITEM 13, Invenergy Wind North America, LLC, 1st and 2nd quarter 2009
Staff recommendation was to impose \$828 penalty for the 1st quarter and \$12 penalty for the 2nd quarter.

Roll call vote was taken as follows: Campbell, aye; Lewis, aye; Waller, aye; Beggs, aye. Motion passed unanimously. Campbell requested that the Commission wait for Wilhelms, who had stepped out for a moment, to participate in the vote.

Reports of Investigation

(Tape 4A, 7.1)

AGENDA ITEM 20, Sandra Quesnoy, former Municipal Court Clerk, City of North Plains. Hedrick summarized the case. Lewis moved that the Commission find that there is sufficient evidence to find a violation of ORS Chapter 244.040(1)(a) by Sandra Quesnoy, if this evidence is not rebutted by contrary evidence, and that this public official be offered a contested case proceeding.

(Tape 4A, 8.7)

Wilhelms returned to the meeting and voted aye on both Agenda Items 9 and 13. Motion passed unanimously.

(Tape 4A, 8.9)

Returned to Lewis' motion on Item 20. Roll call vote was taken as follows: Campbell, aye; Lewis, aye; Waller, aye; Wilhelms, aye; Beggs, aye. Motion passed unanimously.

MISCELLANEOUS ITEMS

(Tape 4A, 11.6)

AGENDA ITEM 32, Director's Report. Bersin presented an overview of the status of the agency's budget fee collection project and the ending balance report.

ADVISORY OPINIONS

(Tape 4A, 13.9)

AGENDA ITEM 22, No. 09A-1006, Attorney General John R. Kroger re fundraising. Bersin summarized the background of the opinion request and the Commission discussed the issues. Waller moved to adopt the advisory opinion as presented. Roll

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call vote was taken as follows: Wilhelms, aye; Campbell, nay; Lewis, aye; Waller, aye; Beggs, aye. Motion passed 4-1.

CORRESPONDENCE RECEIVED/RESPONSES

Staff Opinions

None.

Staff Advice

The Commission reviewed the following items without comment except where noted:

AGENDA ITEM 23, Sandy Flicker re Oregon Rural Electric Cooperative Association's Urban Legislator Field Trip

Other Correspondence

The Commission reviewed the following items without comment except where noted:

AGENDA ITEM 24, No. 09-185ENJ, Mattie Lane re Lakeside Mayor

AGENDA ITEM 25, No. 09-187ENJ, Mattie Lane and Linda Rae Kinch re Lakeside Mayor

AGENDA ITEM 27, No. 09-191XNJ, Signe Warner re Wickiup Water District Board Members

AGENDA ITEM 28, No. 09-192XNJ, Signe Warner re Wickiup Water District Board Members

AGENDA ITEM 29, No. 09-193ENJ, Kim Lawrence re Sweet Home Police Department Officers

(Tape 4A, 34.6)

AGENDA ITEM 26, No. 09-188LNJ, William Korach. Julie Kettler re Lake Oswego School District Superintendent. The Commission questioned why Mr. Korach was not registered as a lobbyist. Bersin summarized the registration thresholds.

(Tape 4A, 36.0)

The Commission convened into executive session at 2:34 p.m. to consider preliminary reviews pursuant to ORS 244.260(4)(d) and to consult with legal counsel regarding pending litigation pursuant to ORS 192.660(2)(h).

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EXECUTIVE SESSION CONSENT CALENDAR

Reports of Preliminary Review

(Tape 4A, 37.1)

Lewis moved for approval of the remainder of the executive session consent calendar items and the recommended on each as follows:

AGENDA ITEM 35, No. 09-167EDT, Gene Vroman, Board of Directors, Yoncalla School District. Mr. Vroman was not present. The recommendation was that the Commission move to dismiss complaint.

AGENDA ITEM 38, No. 09-171EDC, Katherine M. Brownback, Building Codes Inspector, Hood River County. The recommendation was to move to investigate possible violations of ORS 244.025(1) and ORS 244.040(1).

Roll call vote was taken as follows: Waller, aye; Wilhelms aye; Campbell, aye; Lewis, aye; Beggs, aye. Motion passed unanimously.

End of Executive Session Consent Calendar

OTHER PRELIMINARY REVIEWS

None.

OTHER ITEMS

Own Motion Reviews

(Tape 4A, 39.7)

AGENDA ITEM 39, Possible own motion review re RiverBend Youth Detention Center Superintendent, Darrin N. Humphreys. Bersin summarized the case. Campbell moved that the Commission conduct a preliminary review to determine if there is cause to investigate whether Darrin N. Humphreys has violated ORS Chapter 244. Roll call vote was taken as follows: Lewis, aye; Waller, aye; Wilhelms, aye; Campbell, aye; Beggs, aye. Motion passed unanimously.

Other Items

(Tape 4A, 45.2)

AGENDA ITEM 40, No. 09-186EAI, Mattie S. Lane re Odie Harlon Green. The Commission briefly discussed why matter was considered an additional information item.

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(Tape 4A, 46.0)

AGENDA ITEM 41, Summary of Pending Cases. The Commission reviewed the pending case list without comment.

(Tape 4A, 46.7)

AGENDA ITEM 42, Review of pending litigation. Rosik discussed pending litigation matters.

The Commission convened into executive session at 2:40 p.m. to review and evaluate the performance of the Executive Director pursuant to ORS 192.660(2)(i).

(Tape 4A, 48.0)

AGENDA ITEM 43, Executive Director's Performance Review. (Tape 4B, 0.1) The Commission discussed performance review matters with the Executive Director.

(Tape 4B, 10.0)

The Commission convened into regular session at 3:00 p.m.

(Tape 4B, 10.5)

AGENDA ITEM 31, Trainer's Report. Hedrick discussed recent trainings and presented future requests for training. Bassler discussed the development of a contact database, training request forms, and certificates for those who complete the training.

(Tape 4B, 20.0)

AGENDA ITEM 33, Election of Chair and Vice Chair for 2010. Campbell nominated Beggs for position of Chair and Lewis for Vice Chair. Roll call was taken as follows: Campbell, aye; Lewis, aye; Waller, aye; Wilhelms, aye; Beggs, aye. Motion passed unanimously.

ADJOURNMENT

(Tape 4B, 22.0)

Beggs adjourned the meeting of the Oregon Government Ethics Commission at 3:25 p.m.

The next scheduled meeting date of the Oregon Government Ethics Commission is set for January 15, 2010 at 9:00 a.m. The meeting will be held in the 2nd Floor Conference Room of the Morrow Crane Building at 3218 Pringle Rd SE, Suite 220, in Salem, Oregon.

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