

OREGON GOVERNMENT ETHICS COMMISSION

MEETING MINUTES

May 1, 2009

(Tape 1A, 0.1)

Chair Delna Jones called the meeting to order at 9:07 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 and Charles Beggs. Thomas Bruner participated by telephone. Jeffrey Jones was excused from attendance. Staff present were Executive Director Ron Bersin, Investigator Don Crabtree, Trainer Tammy Hedrick, Program Analyst Virginia Lutz and OGE Council Lynn Rosik.

(Tape 1A, 2.2)

The commission convened into executive session at 9:10 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).

EXECUTIVE SESSION CONSENT CALENDAR

Reports of Preliminary Review

(Tape 1A, 2.4)

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

AGENDA ITEM 25, No. 08-220EDC, Kenneth R. Condon, Former Education Services Manager, Dept of Fish and Wildlife. Mr. Condon was not present.

Executive Session Consent Calendar roll call vote was taken as follows: Beggs, aye; Bruner, aye; Lewis, aye; D. Jones, aye. Motion passed unanimously.

End of Executive Session Consent Calendar

OTHER PRELIMINARY REVIEWS

None.

OTHER ITEMS

Own Motion Reviews

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(Tape 1A, 3.3)

AGENDA ITEM 26, Possible own motion preliminary review re lobbyist Jim Welsh. Mr. Welsh was not present. Lutz summarized the case. The Commission discussed registration requirements. Lewis moved that the Commission conduct a preliminary review to determine if there is cause to investigate whether Jim Welsh has violated ORS 171.725. Beggs, aye; Bruner, aye; Lewis, aye; D. Jones, aye. Motion passed unanimously.

(Tape 1A, 8.0)

The Commission moved the balance of the executive session items as follows to the next meeting for review.

Deferred Cases

AGENDA ITEM 27, No. 09-112EDC, James Carey re Pilot Rock city manager Paul Koch

OTHER ITEMS

AGENDA ITEM 28, No. 09-111EAI, Rex Cordova re West Extension Irrigation District

AGENDA ITEM 29, No. 09-116EAI, John Seeley re Union School District

AGENDA ITEM 30, No. 09-117EDC, Paul Pickett re West Extension Irrigation District

AGENDA ITEM 31, No. 09-118EAI, John Seeley re Clackamas ESD

AGENDA ITEM 32, No. 09-122EAI, John F. Duggan re Dept of Environmental Quality employee

AGENDA ITEM 33, Summary of Pending Cases

AGENDA ITEM 34, Review of Pending Litigation

(Tape 1A, 8.1)

The commission reconvened into regular session at 9:15 a.m.

(Tape 1A, 9.2)

AGENDA ITEM 1, Approval of the Minutes of the March 13, 2009 meeting. D. Jones called for approval of the minutes of the March 13, 2009 Commission meeting. The minutes were approved as presented.

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CONSENT CALENDAR

(Tape 1A, 9.5)

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

Reports of Investigations

None.

Stipulated Final Orders

AGENDA ITEM 2, No. 08-153EDT, Quincy Whitfield, Clackamas River Water District Information Systems Manager. Mr. Whitfield was not present but was represented by counsel, Barrett Mersereau, who did not address the Commission.

AGENDA ITEM 3, No. 08-202EDT, Timothy Crockett, Lakeside Councilor and Code Enforcement Officer. Timothy Crockett was not present.

Roll call vote was taken as follows: Roll call vote was taken as follows: Beggs, aye; Bruner, aye; Lewis, aye; D. Jones, aye. Motion passed unanimously.

End of consent calendar

CORRESPONDENCE RECEIVED/RESPONSES

Lobbying Client/Employer Penalty Correspondence

(Tape 1A, 10.3)

AGENDA ITEM 7, Economic & Community Development. Tim McCabe was present. Commission discussed prior appearances by Mr. McCabe. Lewis moved that the commission issue a letter of education. Roll call vote was taken as follows: Beggs, aye; Bruner, aye; Lewis, aye; D. Jones, aye. Motion passed unanimously.

DEFAULT FINAL ORDERS

(Tape 1A, 13.7)

AGENDA ITEM 4, No. 08-117EDT, Dan Martin, Wallowa Union Railroad Authority employee. Dan Martin was not present. Lewis moved for approval of default final order. Roll call vote was taken as follows: Beggs, aye; Bruner, aye; Lewis, aye; D. Jones, aye. Motion passed unanimously.

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CONTESTED CASE PROPOSED FINAL ORDERS

None.

REPORTS OF INVESTIGATIONS

(Tape 1A, 14.3)

AGENDA ITEM 5, No. 08-181EDC, Robert Warsaw, Former Field Services Supervisor, Oregon Youth Authority. Robert Warsaw was not present. Crabtree summarized the case. Commission held discussion regarding the facts of the case. Lewis moved that the Commission find that there is sufficient evidence to find a violation of ORS 244.040(1)(a) by Robert Warsaw, 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: Beggs, aye; Bruner, aye; Lewis, aye; D. Jones, aye. Motion passed unanimously.

ADVISORY OPINIONS

(Tape 1A, 23.7)

AGENDA ITEM 6, No. 09A-1003, Paul Braunstein, AT&T Mobility, re wireless voice and data plan discounts offered to state and local government employees. Paul Braunstein was not present. Commission discussed basis of opinion and history of discounts. Beggs moved for approval of opinion as presented. Roll call vote was taken as follows: Beggs, aye; Bruner, aye; Lewis, aye; D. Jones, aye. Motion passed unanimously.

CORRESPONDENCE RECEIVED/RESPONSES

Lobbying Client/Employer Penalty Correspondence

(Tape 1A, 29.6)

AGENDA ITEM 8, Beef Northwest Feeders 4th quarter. Lutz summarized the history of actions in this matter. The Commission discussed the reduction of the penalty. Lewis moved to reduce the penalty to \$30. Roll call vote was taken as follows: Beggs, aye; Bruner, aye; Lewis, aye; D. Jones, nay. Motion failed 3-1.

Lobbyist Penalty Correspondence

(Tape 1A, 35.8)

AGENDA ITEM 9, Sara Leverette. Sara Leverette was not present. Lutz summarized the history of actions in this matter. Lewis moved to reduce the penalty to \$30. Roll call vote was taken as follows: Beggs, aye; Bruner, aye; Lewis, aye; D. Jones, aye. Motion passed unanimously.

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(Tape 1A, 42.0)

No quorum for balance of meeting as Bruner was excused. Remainder of items were general discussion only. No actions taken.

(Tape 1A, 42.6)

D. Jones held discussion regarding adding lobbyist penalty matters to consent calendar. Lewis made a statement regarding position on imposing at least a small penalty.

Staff Opinions

None.

Staff Advice

(Tape 1A, 46.4)

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

AGENDA ITEM 10, Bruce Zagar re school board member also serving on board of corporation operating charter school sponsored by school district.

AGENDA ITEM 11, Mark Nelson re legislators attending reception. The Commission briefly discussed gift issues.

AGENDA ITEM 12, Gene Whisnant re lobbyist donation to non-profit fund used to pay for legislators to attend professional development conferences.

AGENDA ITEM 13, Richard Gilmore re possible conflict between city position and position held with non-profit organization that contracts with the city.

AGENDA ITEM 14, Gregory Chaimov re how ethics laws may apply to directors or employees of the Regional Arts and Cultural Council.

Other Correspondence

(Tape 1B, 2.3)

The Commission reviewed the following items without comment:

AGENDA ITEM 15, No. 08-237XNJ, Berniece Etchevers re Modoc Point Irrigation District

AGENDA ITEM 16, No. 09-113ENJ, David Trapp re Mt. Angel Councilor Rick Scheidler

AGENDA ITEM 17, No. 09-114ENJ, David Trapp re Mt. Angel Councilor Ray Eder

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AGENDA ITEM 18, No. 09-115ENJ, David Trapp re Mt. Angel Councilor Michael Donohue

AGENDA ITEM 19, No. 09-119ENJ, Richard Silva re Silverton Finance Director Christine Shaffer

AGENDA ITEM 20, No. 09-120ENJ, Mary Anne Rodden re Deputy District Attorney Gerad Egan

AGENDA ITEM 21, No. 09-121ENJ, Mary Anne Rodden re Former District Attorney Bernice Barnett

MISCELLANEOUS ITEMS

(Tape 1B, 3.5)

AGENDA ITEM 22, Legislative and Budget Updates. Bersin summarized the status of the agency's budget request and discussed the fee assessment funding model. The Commission generally discussed the issues related to the economic climate. Bersin reviewed changes to statute through Senate Bill 30, changes to come in House Bill 2518, and gave a brief overview of Senate Bill 577.

(Tape 1B, 39.6)

AGENDA ITEM 23, Director's Report. Bersin advised that a new Commissioner was to be confirmed this date. The Commission discussed replacing other Commissioners whose terms are about to expire.

(Tape 2A, 7.4)

NON-AGENDA ITEM, The Commission briefly discussed the issue of staff advice becoming safe harbor.

(Tape 1B, 7.4)

AGENDA ITEM 24, Rescheduling of June 26 meeting date. Bersin recommended that the June 26, 2009 meeting be rescheduled to July 9, 2009 at 9:00 a.m. A special telephonic executive session meeting was scheduled for July 2, 2009 at 9:00 a.m. to address a case whose timeframe would expire prior to the July 9, 2009 meeting.

(Tape 2A, 15.0)

NON-AGENDA ITEM, Lutz summarized the SEI filing status and QPOD return issues.

(Tape 2A, 18.8)

NON-AGENDA ITEM, Bersin recommended that a workshop be scheduled after the new Commission appointments are made.

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ADJOURNMENT

(Tape 2A, 19.2)

Chair D. Jones adjourned the meeting of the Oregon Government Ethics Commission at 11:00 a.m.

The next meeting date of the Oregon Government Ethics Commission is a special telephonic executive session scheduled for July 2, 2009 at 9:00 a.m. by teleconference. The next regularly scheduled meeting of the Commission will be on July 9, 2009 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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