

OREGON GOVERNMENT ETHICS COMMISSION

MEETING MINUTES

August 14, 2009

9:00 a.m.

(Tape 1A, 0.1)

Chair Delna Jones called the meeting to order at 9:04 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, Charles Beggs, Heather Van Meter, and Gary Wilhelms. Jeffrey Jones was excused from attendance. Staff present were Executive Director Ron Bersin, Investigator Don Crabtree, Investigator Deborah Tuss, Trainer Tammy Hedrick, Program Analyst Virginia Lutz, Administrative Specialist Andrea Mowry, and OGEC Counsel Lynn Rosik.

(Tape 1A, 0.2)

D. Jones announced that the meeting would be her last as her term had expired.

(Tape 1A, 1.6)

The Commission convened into executive session at 9:06 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).

OTHER ITEMS

Own Motion Reviews

(Tape 1A, 3.2)

AGENDA ITEM 68, Possible own motion review re Jewell School District Business Manager Patricia Drew. Ms. Drew was present with legal counsel, Oliver Waldman. Crabtree summarized the background of the matter. Ms. Drew and Mr. Waldman both addressed the Commission regarding district practices. Ms. Drew suggested that she was not aware that her actions would violate law and assured that there was no intent. The Commission briefly discussed violation of law, the process of an own motion action, and settlement options. Lewis moved that the Commission conduct a preliminary review to determine if there is cause to investigate whether Patricia Drew has violated ORS Chapter 244. The Commission generally discussed settlement options. Roll call vote was taken as follows: Beggs, aye; Lewis, aye; Van Meter, aye; Wilhelms, aye; D. Jones, aye. Motion passed unanimously.

(Tape 1A, 35.7)

AGENDA ITEM 69, Possible own motion review re Lobbyist Client/Employer The PEW Charitable Trusts. Susan Allen was present on behalf of PEW and Chris Parta was present on behalf of C&E Systems. Lutz summarized the issues of the own motion

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recommendation. The Commission generally discussed lobbying registration and reporting timelines. (Tape 1B, 0.1) Wilhelms moved that the Commission conduct a preliminary review to determine if there is cause to investigate whether The PEW Charitable Trusts has violated ORS Chapter 171. Roll call vote was taken as follows: Wilhelms, aye; Beggs, aye; Lewis, aye; Van Meter, aye; D. Jones, aye. Motion passed unanimously.

EXECUTIVE SESSION CONSENT CALENDAR

Reports of Preliminary Review

(Tape1B, 0.9)

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

AGENDA ITEM 67, No. 09-130LDT, Jim Welsh, Lobbyist. Mr. Welsh was not present. The recommendation was that the Commission find that there is a substantial, objective basis for believing that Jim Welsh may have violated ORS Chapter 171.740 and 171.745 and that the Commission should investigate accordingly.

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

End of Executive Session Consent Calendar

OTHER PRELIMINARY REVIEWS

None.

OTHER ITEMS

Other Items

(Tape 1B, 2.4)

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

AGENDA ITEM 70, No. 09-154EAI, Dan Martin re Marc Stauffer. Bersin summarized case. The Commission discussed the preliminary review process.

AGENDA ITEM 71, No. 09-155EAI, Richard Koenig re Kate Brown.

AGENDA ITEM 72, No. 09-161EDC, Cheryl Crumbley re John Aarons.

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AGENDA ITEM 73, No. 09-165EAI, Jim Steiner re John Aarons.

AGENDA ITEM 74, No. 09-166EAI, Jim Steiner re Linda Wagner.

AGENDA ITEM 75, No. 09-169EAI, Milo Pope re Beverly Calder.

(Tape 1B, 5.0)

AGENDA ITEM 76, Summary of Pending Cases. The Commission reviewed the summary of pending cases without comment.

(Tape 1B, 5.2)

AGENDA ITEM 77, Review of Pending Litigation. Rosik briefly discussed pending litigation.

(Tape 1B, 27.3)

The Commission recessed at 10:29 a.m. and reconvened into regular session at 10:34 a.m.

(Tape 1B, 28.5)

AGENDA ITEM 1, Approval of the minutes of July 2, 2009 meeting. Minutes approved without correction.

(Tape 1B, 34.0)

AGENDA ITEM 2, Approval of the minutes of July 9, 2009. Lewis noted a needed correction to Item 79 regarding the roll call vote. Minutes to be corrected and brought back to the October 2, 2009 Commission meeting for approval.

CONSENT CALENDAR

Reports of Investigation

None.

Stipulated Final Orders

None.

(Tape 1B, 36.8)

Items 39-43 were removed from the consent calendar for comment or appearance of parties wishing to address the Commission.

(Tape 1B, 41.0)

Item 8 was removed from the agenda due to administrative error.

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(Tape 1B, 42.0)

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

Statement of Economic Interest Penalty Correspondence

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

AGENDA ITEM 3, Vicki Ashley, Wasco County Planning Commission

AGENDA ITEM 4, Joel Barnett, Lone Council

AGENDA ITEM 5, Dave Beitler, Sandy Council

AGENDA ITEM 6, Linda Chadwick, Prineville Planning Commission

AGENDA ITEM 7, Chad Currey, Malheur County Planning & Zoning Commission

AGENDA ITEM 9, Kathy Davis, Unity Council

AGENDA ITEM 10, Lori DeRemer, Happy Valley Council

AGENDA ITEM 11, Hannah Fisher, Board of Higher Education

AGENDA ITEM 12, Griff Hansen, Cornelius Planning Commission

AGENDA ITEM 13, Eric Hauptman, Dunes City Mayor

AGENDA ITEM 14, William Hogan, Hood River County SD Business Manager

AGENDA ITEM 15, Michael Huber, Racing Commission

AGENDA ITEM 16, Merle Keys, Dufur Council

AGENDA ITEM 17, Timothy Krupa, Cannon Beach Design Review
Mr. Krupa was present but did not address the Commission

AGENDA ITEM 18, Jerome Magnuson, Linn County Planning Commission

AGENDA ITEM 19, Lisa McAllister, Banks Planning Commission

AGENDA ITEM 20, Jeff Mitchell, Chiloquin Council

AGENDA ITEM 21, Carrie Nelson, Hood River Council

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AGENDA ITEM 22, Nadine Nyman, Redmond Planning Commission

AGENDA ITEM 23, Frank Orrell, Warrenton Council

AGENDA ITEM 24, Vidal Pena, Independence Planning Commission
Mr. Pena was present but did not address the Commission

AGENDA ITEM 25, Walter Powell, Gilliam County Planning Commission

AGENDA ITEM 26, Carey Rhoads, Carlton Council

AGENDA ITEM 27, Pam Rosenbalm re Jeff Bufton, Arlington Mayor

AGENDA ITEM 28, Tom Ryan, Roseburg Council

AGENDA ITEM 29, Jim Short, Grass Valley Council

AGENDA ITEM 30, Julia Swearingen, Winston-Dillard SD 116 Business Manager

AGENDA ITEM 31, Gus Tsiatsos, Union County Planning Commission

AGENDA ITEM 32, Jim Vaccarezza, Willamina Planning Commission

AGENDA ITEM 33, Rob Wheeler, Happy Valley Mayor

AGENDA ITEM 34, Meredith Wilson, OHSU Board of Directors

AGENDA ITEM 35, David Yaden, Board of Higher Education

AGENDA ITEM 36, Jim Zacharias, Joseph Council

Lobbying Client/Employer Penalty Correspondence

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

AGENDA ITEM 37, H&R Block Management, LLC, 1st quarter 2009

AGENDA ITEM 38, Mano a Mano Family Center – CAUSA, 1st quarter 2009

Lobbyist Penalty Correspondence

AGENDA ITEM 44, Craig Hawkins, 1st quarter 2009

The staff recommendation was to issue a letter of education.

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AGENDA ITEM 45, Sybil Hebb, 1st quarter 2009

The staff recommendation was to reduce the penalty to \$845.

Consent Calendar roll call vote was taken as follows: Lewis, aye; Van Meter, aye; Wilhelms, aye; Beggs, aye; D. Jones, aye. Motion passed unanimously.

End of Executive Session Consent Calendar

(Tape 1B, 42.3)

AGENDA ITEM 40, Klamath Tribes, 1st quarter 2009, continued from the July 9, 2009 Commission meeting. Legal counsel Ed Goodman present on behalf of the tribes. Lutz summarized the case. (Tape 2A, 0.1) Bersin amended the staff recommendation from imposing a penalty to issuing a letter of education. Mr. Goodman addressed the Commission. Van Meter moved for approval of the staff recommendation to issue a letter of education in lieu of a penalty. Roll call vote was taken as follows: Lewis, aye; Van Meter, aye; Wilhelms, aye; Beggs, aye; D. Jones, aye. Motion passed unanimously.

(Tape 2A, 5.0)

AGENDA ITEM 42, Oregon State Grange, 1st through 4th quarters 2008. Phyllis Wilson, President of the Oregon State Grange was present. Lutz summarized the case. Revised staff recommendation for all 4 quarters based on previous late filings was presented to the Commission. The revised penalties totaled \$6376. Ms. Wilson addressed the Commission regarding the case. The Commission discussed the process of assessing penalties. Bersin reviewed the penalty matrix and issues that can increase penalties. Van Meter moved to reduce the penalty to \$600 with possible letter of education. Roll call vote was taken as follows: Beggs, aye; Lewis, nay; Van Meter, aye; Wilhelms, aye; D. Jones, aye. Motion passed 4-1.

(Tape 2A, 27.4)

AGENDA ITEM 41, Oregon Cattlemen's Association, 1st through 4th quarters 2008. Client was not present. Lutz summarized the case. The Commission discussed the staff recommendation on penalties totaling \$4345. Wilhelms moved to reduce the penalty to \$600. Roll call vote taken as follows: Wilhelms, aye; Beggs, nay; Lewis, nay; Van Meter, nay; D. Jones, nay. Motion failed 1-4. Lewis moved to reduce penalty to \$3000. Roll call vote was taken as follows: Beggs, aye; Lewis, aye; Van Meter, aye; Wilhelms, nay; D. Jones, aye. Motion passed 4-1.

(Tape 2A, 34.6)

AGENDA ITEM 39, Columbia Riverkeeper, 1st quarter 2009. Client was not present. Lutz summarized the case. Van Meter moved for approval of the staff recommendation of a \$270 penalty. Roll call vote was taken as follows: Wilhelms, aye; Beggs, aye; Lewis, aye; Van Meter, aye; D. Jones, aye. Motion passed unanimously.

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AGENDA ITEM 43, Marcy Eastham, 1st quarter 2009, continued from the July 9, 2009 Commission meeting. Bersin summarized case. (Tape 2B, 0.1) Beggs moved for approval of the staff recommendation to issue a letter of education. Roll call vote was taken as follows: Van Meter, aye; Wilhelms, aye; Beggs, aye; Lewis, aye; D. Jones, aye. Motion passed unanimously.

DEFAULT FINAL ORDERS

(Tape 2B, 1.1)

AGENDA ITEM 46, No. 08-155XDC, Karl Meier, Jewell School District 8. Mr. Meier was not present. Bersin removed item pending receipt of the original. Rescheduled to the October 2, 2009 Commission meeting.

(Tape 2B, 1.6)

AGENDA ITEM 47, No. 08-156XDC, Ann Samuelson, Jewell School District 8

AGENDA ITEM 48, No. 08-161XDC, Ulrich Schockelt, Jewell School District 8

Ms. Samuelson and Mr. Schockelt were not present. Crabtree summarized cases. Van Meter moved for approval of both default final orders for Samuelson and Schockelt. Roll call vote was taken as follows: Lewis, aye; Van Meter, aye; Wilhelms, aye; Beggs, aye; D. Jones, aye. Motion passed unanimously.

CONTESTED CASE PROPOSED FINAL ORDERS

None.

REPORTS OF INVESTIGATIONS

(Tape 2B, 8.0)

AGENDA ITEM 49, No. 08-188EDC, Gordon Kaesemeyer, Former Mayor, City of Halfway. Mr. Kaesemeyer not present. Crabtree summarized the case and noted that the number of violations in the recommended action had changed on line 2 from 8 to 7, and on line 3 from 4 to 3. Lewis moved that the Commission find that there is sufficient evidence to find 16 violations of ORS Chapter 244.120(2)(b)(A), 7 violations of ORS Chapter 244.040(1)(a) in 2007 and 3 violations of ORS Chapter 244.040(1) in 2008, 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; Lewis, aye; Van Meter, aye; Wilhelms, aye; D. Jones, aye. Motion passed unanimously.

(Tape 2B, 15.5)

AGENDA ITEM 50, No. 08-190XDC, Gordon Kaesemeyer, Former Mayor, City of Halfway. Mr. Kaesemeyer not present. Crabtree summarized case. Lewis moved that the Commission find that there is sufficient evidence to find 3 violations of ORS Chapter

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192.660(1), 3 violations of ORS Chapter 192.660(2), and 3 violations of ORS Chapter 192-660(2)(b), 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: Wilhelms, aye; Beggs, aye; Lewis, aye; Van Meter, aye; D. Jones, aye. Motion passed unanimously.

(Tape 2B, 18.2)

AGENDA ITEM 51, No. 08-211EDT, Bill Zelenka, Director of Planning, Crook County. Mr. Zelenka was not present. Hedrick summarized case. The Commission discussed legislative and administrative interest. Lewis 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: Beggs, aye; Lewis, aye; Van Meter, aye; Wilhelms, aye; D. Jones, aye. Motion passed unanimously.

(Tape 2B, 31.3)

AGENDA ITEM 52, No. 08-233EDC, John H. Seeley, Request for 30-day continuation of investigation. Crabtree summarized the case.

AGENDA ITEM 53, No. 08-234EDC, Laura Seeley, Request for 30-day continuation of investigation. Crabtree summarized the case.

Van Meter moved that the Commission continue its investigation of both John H. Seeley and Laura Seeley not more than 30 days to determine further facts and that this matter be brought before the Commission for disposition before the end of such period. Roll call vote was taken as follows: Wilhelms, aye; Beggs, aye; Lewis, aye; Van Meter, aye; D. Jones, aye. Motion passed unanimously.

ADVISORY OPINIONS

(Tape 2B, 32.1)

AGENDA ITEM 54, Request for reconsideration of Advisory Opinion 04A-1005. Bersin summarized request. Rosik advised on the requirements of the law. The Commission reviewed the advisory opinion and after discussing the background issues, elected not to amend the opinion.

CORRESPONDENCE RECEIVED/RESPONSES

The Commission reviewed the following items without comment:

Staff Opinions

AGENDA ITEM 55, No. 09S-002, Colt Gill re the offer of monetary rebates to school district employees

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Staff Advice

AGENDA ITEM 56, Brady Rogers re city employee purchasing property
Other Correspondence

AGENDA ITEM 57

No. 09-156ENJ, Ward Warren
No. 09-157ENJ, Rob Pell
No. 09-158ENJ, Mark Townes
Ronald Schutz re City of Grants Pass officials

AGENDA ITEM 58, No. 09-159ENJ, Chuck Goodwin and Carol Parker
Stacey Goodwin re City of Warrenton officials

AGENDA ITEM 59, No. 09-162ENJ, Dave Toler and Dwight Ellis
Dale Matthews re Josephine County officials

AGENDA ITEM 60, No. 09-163ENJ, Cathy Grimes
Bill Jackson re Yoncalla School District board member

AGENDA ITEM 61, No. 09-164ENJ, Jill Cunningham
Bill Jackson re Yoncalla School District board member

MISCELLANEOUS ITEMS

(Tape 2B, 38.3)

AGENDA ITEM 63, OLCC request for policy review. Bersin summarized request. Van Meter moved for approval of policy. Roll call vote was taken as follows: Van Meter, aye; Wilhelms, aye; Beggs, aye; Lewis, aye; D. Jones, aye. Motion passed unanimously.

(Tape 2B, 39.4)

AGENDA ITEM 62, Administrative Rules. Bersin summarized process for updating administrative rules following legislative session law changes.

(Tape 2B, 41.5)

AGENDA ITEM 66, Director's Report. Bersin discussed assessment fees and the customer service survey.

AGENDA ITEM 65, Trainer's Report. The item was to be continued to the October 2, 2009 Commission meeting.

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(Tape 2B, 42.6)

AGENDA ITEM 64, Election of Commission Chair and Vice Chair for balance of 2009.

D. Jones advised that new members will be confirmed soon and possibly may attend the October 2, 2009 Commission meeting. D. Jones opened the discussion of nominations for Chair. Lutz attempted reaching J. Jones, who had requested participation in this matter, by telephone but was unsuccessful. (Tape 3A, 0.1)

Wilhelms nominated Beggs to position of Chair. Beggs nominated Lewis to position of Chair. The Commission reviewed its options and after discussion Van Meter nominated Beggs to Chair position and Lewis to Vice Chair. Roll call vote was taken as follows: Lewis, abstained; Van Meter, aye; Wilhelms, aye; Beggs, aye; D. Jones, aye. Motion passed unanimously.

ADJOURNMENT

(Tape 3A, 12.0)

D. Jones adjourned the meeting of the Oregon Government Ethics Commission at 12:34 p.m.

The next scheduled meeting date of the Oregon Government Ethics Commission is set for October 2, 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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