

# OREGON GOVERNMENT ETHICS COMMISSION

## MEETING MINUTES

October 2, 2009

9:00 a.m.

(Tape 1A, 0.1)

Chair Charles Beggs called the meeting to order at 8:57 a.m. The meeting was held in the 2<sup>nd</sup> 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, and Gary Wilhelms. Heather VanMeter participated by telephone. Staff present were Executive Director Ron Bersin, Investigator Don Crabtree, Investigator Deborah Tuss, Trainer Tammy Hedrick, Program Analyst Virginia Lutz, Administrative Specialist Andrea Williams, and OGEC Counsel Lynn Rosik.

(Tape 1A, 0.4)

AGENDA ITEM 1, Approval of the July 9, 2009 meeting minutes.

AGENDA ITEM 2, Approval of the August 14, 2009 meeting minutes.

Beggs called for approval of the minutes of the July 9, 2009 and August 14, 2009 Commission meetings. The minutes were approved without comment.

(Tape 1A, 0.6)

VanMeter joined the meeting via telephone.

(Tape 1A, 1.1)

The new Commission members introduced themselves. Beggs noted that there is one more Commission member appointment pending.

## CONSENT CALENDAR

(Tape 1A, 4.3)

Items 5, 13, and 14 were removed from the consent calendar for comment.

(Tape 1A, 9.5)

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

### Reports of Investigation

None.

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### Stipulated Final Orders

The parties in the following items were not present unless so noted.

AGENDA ITEM 3, No. 08-155XDC, Karl Meier, Jewell School District No 8 Board of Directors

AGENDA ITEM 4, No. 09-174EDC, Patricia Drew, Jewell School District No 8 Business Manager

### Statement of Economic Interest Penalty Correspondence

The parties in the following items were not present unless so noted.

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

AGENDA ITEM 6, Michael Baleztena, Pilot Rock Council

AGENDA ITEM 7, John Bowles, Heppner Council

AGENDA ITEM 8, Harry Demorest, Investment Council

AGENDA ITEM 9, Christine Dublin, Molalla Planning Commission

AGENDA ITEM 10, Art Krueger, Jacksonville Planning Commission

AGENDA ITEM 11, Gary Rodney, Dundee Planning Commission

AGENDA ITEM 12, Betty Taunton, Depoe Bay Planning Commission

### Lobbying Client/Employer Penalty Correspondence

The parties in the following items were not present unless so noted.

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

AGENDA ITEM 15, El Paso Natural Gas, 1<sup>st</sup> quarter 2009

AGENDA ITEM 16, IBEW, Local 125, 2<sup>nd</sup> quarter 2009

AGENDA ITEM 17, Tualatin Riverkeepers, 2<sup>nd</sup> quarter 2009

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The staff recommendation on each of the following is as indicated:

AGENDA ITEM 18, Invenergy Wind North America, LLC  
Reduce penalty to \$500

AGENDA ITEM 19, Oregon Health Action Campaign  
Reduce penalty to \$16

#### Lobbyist Penalty Correspondence

The parties in the following items were not present unless so noted.

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

AGENDA ITEM 20, Kevin Finney, 1<sup>st</sup> quarter 2009

AGENDA ITEM 21, Don Schweitzer, 2<sup>nd</sup> quarter 2009

AGENDA ITEM 22, Donald Loving, 4<sup>th</sup> quarter 2008

The staff recommendation on each of the following is as indicated:

AGENDA ITEM 23, Donald Loving, 2<sup>nd</sup> quarter, 2009  
Reduce penalty to \$40

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

#### End of Consent Calendar

(Tape 1A, 10.1)

AGENDA ITEM 5, Diane Anderson, Aurora Historic Review Board. Ms. Anderson was not present. Lewis suggested issuing a letter of education in lieu of a penalty. The Commission briefly discussed the issue. Lewis moved to reduce the penalty to \$50 and to encourage Ms. Anderson not to resign. Roll call vote was taken as follows: Wilhelms, aye; Campbell, aye; Lewis, aye; Van Meter, aye; Waller, aye; Beggs, aye. Motion passed unanimously.

(Tape 1A, 15.7)

AGENDA ITEM 13, Oregon Cattlemen's Association. Request for reconsideration of penalties. Kay Teisl/Director was present. Bersin summarized case and advised that the facts are unknown as the investigation regarding Mr. Welsh is pending. Staff advised that the investigation will be completed by January and recommended that the decision

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be made in January. Ms. Teisl addressed the Commission. Beggs stated that the matter would be continued to the January 15, 2010 Commission meeting.

(Tape 1A, 29.7)

**AGENDA ITEM 14**, The PEW Charitable Trusts. Client representative was not present. Staff requests that the August 14, 2009 motion to conduct a preliminary review be rescinded. Lutz summarized the case. Lewis moved to approve the staff's request to rescind the August 14, 2009 motion to conduct a preliminary review. Roll call vote was taken as follows: Waller, aye; Wilhelms, aye; Campbell, aye; Lewis, aye; Van Meter, aye; Beggs, aye. Motion passed unanimously.

(Tape 1A, 32.2)

The Commission briefly discussed revising the letter of education to have clearer language.

(Tape 1A, 34.9)

**The Commission convened into executive session at 9:34 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).**

(Tape 1A, 38.7)

Item 49 was removed from the consent calendar to allow appearance of parties wishing to address the Commission.

(Tape 1A, 39.0)

**AGENDA ITEM 49**, No. 09-138EDT, Trina Duncan, former Recorder/Treasurer, City of Halfway. Ms. Duncan was present. Tuss summarized the case. Ms. Duncan addressed the Commission. The Commission briefly discussed the case. (Tape 1B, 0.1) Lewis moved that the Commission find that there is a substantial, objective basis for believing that Trina Duncan may have violated ORS 244.120(1)(c) and that the Commission should investigate accordingly. Roll call vote was taken as follows: Van Meter, aye; Waller, aye; Wilhelms, nay; Campbell, nay; Lewis, aye; Beggs, aye. Motion passed 4-2.

## **EXECUTIVE SESSION CONSENT CALENDAR**

### **Reports of Preliminary Review**

(Tape 1B, 17.1)

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

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AGENDA ITEM 40, No. 09-112EDC, Paul Koch, City Manager, City of Pilot Rock. Mr. Koch was not present. The recommendation was that the Commission move to investigate possible violations of ORS 244.025(1), ORS 244.040(1) and ORS 244.120.

AGENDA ITEM 41, No. 09-117EDT, Ray Akers, Operations Manager, West Extension Irrigation District. Mr. Akers was not present. The recommendation was that the Commission move to investigate possible violations of ORS 244.040(1), ORS 244.120(1)(c), ORS 244.177(1) and ORS 244.179.

AGENDA ITEM 42, No. 09-123EDT, Dean Lawrence, Board Member, Bly Water and Sanitary Board. Mr. Lawrence was not present. The recommendation was that the Commission move to investigate possible violations of ORS 244.040(1) and ORS 244.120(2).

AGENDA ITEM 43, No. 09-124EDT, John Lansdowne, Board Member, Bly Water and Sanitary Board. Mr. Lansdowne was not present. The recommendation was that the Commission move to investigate possible violations of ORS 244.040(1) and ORS 244.120(2).

AGENDA ITEM 44, No. 09-125EDT, Robert Tucker, Board Member, Bly Water and Sanitary Board. Mr. Tucker was not present. The recommendation was that the Commission move to investigate possible violations of ORS 244.040(1) and ORS 244.120(2).

AGENDA ITEM 45, No. 09-126EDT, Bill Bell, Board Member, Bly Water and Sanitary Board. Mr. Bell was not present. The recommendation was that the Commission move to investigate possible violations of ORS 244.040(1) and ORS 244.120(2).

AGENDA ITEM 46, No. 09-127EDT, Gloria Buchanan, Board Member, Bly Water and Sanitary Board. Ms. Buchanan was not present. The recommendation was that the Commission move to investigate possible violations of ORS 244.040(1) and ORS 244.120(2).

AGENDA ITEM 47, No. 09-128EDC, Vince Watson, Sr, Board of Trustees, West Umatilla Vector Control District. Mr. Watson was not present. The recommendation was that the Commission move to investigate possible violations of ORS 244.040(1).

AGENDA ITEM 48, No. 09-129EDC, Donald Hanson, Board of Trustees, West Umatilla Vector Control District. Mr. Hanson was not present. The recommendation was that the Commission move to investigate possible violations of ORS 244.040(1).

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

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End of Executive Session Consent Calendar

**OTHER PRELIMINARY REVIEWS**

None.

**OTHER ITEMS**

Own Motion Reviews

(Tape 1B, 20.1)

AGENDA ITEM 50, Possible own motion review re Lobbyist Elizabeth Cushwa.

AGENDA ITEM 51, Possible own motion review re Lobbyist Kristen Leonard.

AGENDA ITEM 52, Possible own motion review re Lobbyist Kevin Neely.

AGENDA ITEM 53, Possible own motion review re Lobbyist Chris Parta.

Kristen Leonard and Kevin Neely, lobbyists for C&E Systems, were present and both addressed the Commission on behalf of Elizabeth Cushwa and Chris Parta as well. Both stated that there was a miscommunication between C&E Systems and The PEW Charitable Trusts. Rosik reviewed the own motion process. Beggs moved that the Commission conduct a preliminary review to determine if there is cause to investigate whether Ms. Cushwa, Ms. Leonard, Mr. Neely, and Mr. Parta have violated ORS 171.725. Roll call vote was taken as follows: Campbell, nay; Lewis, aye; Van Meter, aye; Waller, nay; Wilhelms, nay; Beggs, nay. Motion failed 2-4.

Other Items

(Tape 1B, 28.9)

AGENDA ITEM 58, Review of Pending Litigation. Rosik discussed pending litigation matters.

(Tape 1B, 38.3)

The Commission reviewed the following items without comment:

AGENDA ITEM 54, No. 09-172EAI, Bill Jackson re Cathey Grimes.

AGENDA ITEM 55, No. 09-175EAI, Bert Roach re Adam Colby.

AGENDA ITEM 56, No. 09-176EAI, Jerry Hogevoll re Peggy Leoni.

AGENDA ITEM 57, Summary of Pending Cases

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(Tape 1B, 41.7)

**The Commission recessed at 10:26 a.m. and reconvened into regular session at 10:37 a.m.**

(Tape 2A, 0.1)

AGENDA ITEM 49, No. 09-138EDT, Trina Duncan, Former Recorder/Treasurer, City of Halfway. Ms. Duncan was not present. The Commission discussed the decision made on this item. Lewis moved to reconsider motion passed to investigate Ms. Duncan. Roll call vote was taken as follows: Wilhelms, aye; Campbell, aye; Lewis, aye; Van Meter, nay; Waller, nay; Beggs, nay. Motion failed 3-3.

### **DEFAULT FINAL ORDERS**

None.

### **CONTESTED CASE PROPOSED FINAL ORDERS**

None.

### **REPORTS OF INVESTIGATIONS**

(Tape 2A, 2.9)

AGENDA ITEM 24, No. 08-220EDT, Kenneth Condon, Former Manager, Education Services Section, Department of Fish and Wildlife. Mr. Condon was not present. Tuss summarized the case. Rosik briefly reviewed the process of finding violations. Campbell moved that the Commission find that there is sufficient evidence to find a violation of ORS Chapter 244.040(1)(a) by Kenneth Condon, 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: Campbell, aye; Lewis, aye; Van Meter, aye; Waller, aye; Wilhelms, aye; Beggs, aye. Motion passed unanimously.

(Tape 2A, 9.5)

Mr. Seeley joined the meeting via telephone.

AGENDA ITEM 25, No. 08-233EDC, John Seeley, Former Superintendent and Principal, Jewell School District No 8. Mr. Seeley participated by telephone.

AGENDA ITEM 26, No. 08-234EDC, Laura Seeley, Teacher Jewell School District No 8. Ms. Seeley was not present.

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Crabtree summarized both cases. Mr. Seeley addressed the Commission. Rosik summarized the Commission's options. Van Meter moved that the Commission find that there is sufficient evidence to find a violation of ORS Chapter 244.040(1)(a) and ORS 244.120(1)(c), by John Seeley, 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; Campbell, aye; Lewis, aye; Van Meter, aye; Waller, aye; Beggs, aye. Motion passed unanimously.

Van Meter moved that the Commission find that there is sufficient evidence to find a violation of ORS Chapter 244.040(1)(a), by Laura Seeley, 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.

### **ADVISORY OPINIONS**

None.

### **CORRESPONDENCE RECEIVED/RESPONSES**

The Commission reviewed the following items without comment:

#### **Staff Opinions**

None.

#### **Staff Advice**

**AGENDA ITEM 27**, Department of Consumer and Business Services Employment Services

#### **Other Correspondence**

**AGENDA ITEM 28, No. 09-173ENJ**, TJ Woodley  
Al King re Klamath Soil and Water Conservation

**AGENDA ITEM 29, No. 09-177XNJ**, Lexington Mayor and Council  
Marcia Kemp re City of Lexington Officials

**AGENDA ITEM 30, No. 09-178ENJ**, Mark Hass  
Belinda Jackson re Senator

**AGENDA ITEM 31, No. 09-179ENJ**, Brad Winters, et al  
Charles Krisor re Lake County Commissioners and Fair Board Members

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AGENDA ITEM 32, No. 09-180ENJ, John Roorbach  
Teresa Kolibaba re Port Orford Mayor

AGENDA ITEM 33, No. 09-181XNJ, William Bain  
Greg Stanton re Mayor of Newport

### **MISCELLANEOUS ITEMS**

(Tape 2A, 29.2)

AGENDA ITEM 34, Executive Director's Performance Evaluation Discussion. Bersin summarized process. The Commission was given the evaluation handout. The forms will be sent to Beggs. He will compile feedback and address at the next Commission meeting date scheduled for November 20, 2009.

(Tape 2A, 36.0)

AGENDA ITEM 35, Customer Service Survey. Bersin briefly reviewed the percentage of responses and comments received.

(Tape 2A, 39.3)

AGENDA ITEM 36, Commission Best Practices Survey. Survey was sent to Commission members. Survey varies from last year due to new members.

(Tape 2A, 40.2)

AGENDA ITEM 38, Trainer's Report. Bersin summarized Hedrick's report as she was not present. Bersin advised the Commission that a new trainer had been hired and would begin on October 19, 2009. Bersin informed the Commission that they are welcome to attend any scheduled training sessions. (Tape 2B, 0.1) Hedrick received several requests to train on the changes occurring in the laws. Bersin discussed i-Learn program. Hedrick looking into programs other agencies are currently using to see if they could benefit the OGEC.

(Tape 2B, 4.2)

AGENDA ITEM 39, Director's Report. Bersin advised of an Administrative Rules Hearing scheduled on October 22, 2009 at the OGEC office. Additionally, a Rules Advisory Committee will meet on October 29, 2009 to review the draft of proposed rules. A compilation of the comments received will be voted on at the November 20, 2009 Commission meeting. The OGEC's goal is to have the rules completed and in place beginning in January. Bersin requested proposed date for workshop for all Commissioners to attend. Date will be decided once proposed 2010 meeting dates are reviewed.

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(Tape 2B, 8.9)

AGENDA ITEM 37, Proposed 2010 Meeting Dates. The Commission discussed future meeting dates. The proposed meeting dates were January 15, March 5, April 23, June 4, July 23, September 10, October 29 and December 10. The September 10 meeting was rescheduled to September 9, 2010. (Tape 2B, 9.8) Hedrick joined the meeting. A workshop was scheduled for Monday, November 9<sup>th</sup>, 2009 from 9:00 a.m. – 3:00 p.m. Van Meter noted that she would not be available to attend. Hedrick to provide instructional materials to Van Meter.

### **ADJOURNMENT**

(Tape 2B, 16.7)

**Beggs adjourned the meeting of the Oregon Government Ethics Commission at 11:47 p.m.**

**The next scheduled meeting date of the Oregon Government Ethics Commission is set for November 20, 2009 at 9:00 a.m. The meeting will be held in the 2<sup>nd</sup> Floor Conference Room of the Morrow Crane Building at 3218 Pringle Rd SE, Suite 220, in Salem, Oregon.**

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