

OREGON GOVERNMENT ETHICS COMMISSION

MEETING MINUTES

March 13, 2009

(Tape 1A, 0.1)

Chair Delna Jones called the meeting to order at 9:08 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 Jeffry Jones, Kenneth Lewis, Charles Beggs and Thomas Bruner. Staff present were Executive Director Ron Bersin, Investigator Don Crabtree, Investigator Deborah Tuss, Trainer Tammy Hedrick, Program Analyst Virginia Lutz and OGECC Counsel Lynn Rosik.

Chair D. Jones introduced newly-appointed commissioner Gary Wilhelms who was present to observe the commission meeting.

(Tape 1A, 0.5)

AGENDA ITEM 1, Approval of the Minutes of the January 31, 2009 meeting. D. Jones called for approval of the minutes of the January 31, 2009 commission meeting. Lewis noted correction to page 4, items 24-26 in that Beggs suggested the matter be deferred to next meeting. The minutes were approved with the noted corrections.

CONSENT CALENDAR

(Tape 1A, 3.2)

Bruner 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. 08-157XDC, Allen Foster, Jewell School District Board of Directors. Mr. Foster was not present.

AGENDA ITEM 3, No. 08-158XDC, Cathy Rozinek, Jewell School District Board of Directors. Ms. Rozinek was not present.

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AGENDA ITEM 4, No. 08-159XDC, Tania Skinner, Jewell School District board of Directors. Ms. Skinner was not present.

AGENDA ITEM 5, No. 08-162XDC, Carrie Thompson, Jewell School District board of Directors. Ms. Thompson was not present.

AGENDA ITEM 6, No. 08-214EDT, Bob Cullen, City of Lafayette Councilor. Mr. Cullen was not present.

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

End of consent calendar

DEFAULT FINAL ORDERS

None.

CONTESTED CASE PROPOSED FINAL ORDERS

None.

REPORTS OF INVESTIGATIONS

None.

ADVISORY OPINIONS

(Tape 1A, 4.3)

AGENDA ITEM 7, No. 09A-1002, OGEC opinion re lobbying by former members of the Legislative Assembly who have been elected to certain statewide offices. Rosik noted that the opinion amends and rescinds previously adopted opinion No. 09A-1001. J. Jones moved that the Commission adopt the opinion as presented. Roll call vote was taken as follows: Bruner, aye; D. Jones, aye; Beggs, aye; Lewis, aye; J. Jones, aye. Motion passed unanimously.

CORRESPONDENCE RECEIVED/RESPONSES

(Tape 1A, 6.0)

D. Jones addressed the use of a proposed penalty matrix. Bersin provided an overview of the proposed penalty matrix and Crabtree discussed in further detail what factors are considered when determining the calculations.

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Lobbyist Penalty Correspondence

(Tape 1A, 2.8)

AGENDA ITEM 18, Tim McCabe. Lutz summarized the history of actions in the matter. Mr. McCabe was present with Jennifer Coffin and addressed the Commission regarding his failure to timely file his 3rd quarter lobbyist expenditure report. Mr. McCabe indicated that there was confusion regarding the two types of expenditure reports and his responsibility for both reports. Lewis moved that the Commission issue a letter of education in lieu of imposition of accrued penalties. Roll call vote was taken as follows: Bruner, aye; Jones. J, aye; Jones. D, aye; Lewis, aye; Beggs, aye. Motion passed unanimously.

Lobbyist Client/Employer Penalty Correspondence

(Tape 1A, 39.0)

AGENDA ITEM 15-17, Oregon Association of Nurse Anesthetists. Lutz summarized the history of actions in the matter. Les Sturgis was present and addressed the Commission regarding failure to timely file the 2008 1st, 2nd and 3rd quarter client/employer expenditure reports. Mr. Sturgis suggested that internal issues and changes in staffing contributed to the filing delay and that they had implemented procedural changes to avoid future problems. Bruner moved that the Commission issue a letter of education in lieu of imposition of accrued penalties. Lewis suggested the imposition of a reduced penalty. Roll call vote was taken on Bruner's motion as follows: Beggs, aye; Bruner, aye; J. Jones, aye; D. Jones, aye; Lewis, nay. Motion passed 4 – 1.

(Tape 1B, 4.5)

AGENDA ITEMS 8-10, General Motors Corporation. Lutz summarized the history of actions in the matter. Kevin Campbell was present and addressed the Commission regarding his client's failure to timely file the 2008 1st, 2nd and 3rd quarter client/employer expenditure reports. Mr. Campbell suggested that his client has implemented internal processes and training to eliminate future untimely filing of required reporting. Beggs moved for imposition of 20% of the proposed penalty on each late report. Roll call vote was taken as follows: Beggs, aye; Bruner, aye; D. Jones, nay; Lewis, aye; J. Jones, aye. Motion passed 4 – 1.

(Tape 1B 37.7)

The commission recessed at 10:35 a.m. and reconvened into regular session at 10:45 a.m.

The commission convened into executive session at 10:47 a.m. to consider preliminary reviews pursuant to ORS 244.060(6)(c) and to consult with legal counsel regarding pending litigation pursuant to ORS 192.660(2)(h).

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EXECUTIVE SESSION CONSENT CALENDAR

(Tape 1B 37.8)

Items 47 – 50 were removed from the executive session consent calendar for appearance or comment.

Reports of Preliminary Review

(Tape 42.7)

AGENDA ITEM 47, No. 08-228EDT, Terry Kneisler, Former Reynolds School District Superintendent. Mr. Kneisler was present with counsel James M. Brown. Tuss summarized the case. Counsel Brown addressed the commission regarding school practices. Mr. Kneisler addressed the commission re contract items and his actions. J. Jones moved that the commission find that there is a substantial, objective basis for believing that Terry Kneisler may have violated ORS 244.040(1)(a) and 244.120(1)(c) and that the Commission should investigate accordingly. Roll call vote was taken as follows: Lewis, aye; J. Jones, aye; Beggs, aye; D. Jones, aye; Bruner, aye. Motion passed unanimously.

(Tape 2A, 15.1)

AGENDA ITEM 48, No. 08-229EDT, Wayne Travillion, Former Reynolds School District Human Resources Director. Mr. Travillion was present with council James M. Brown. Tuss summarized the case. Mr. Travillion addressed the commission regarding references made in the report. Mr. Brown addressed the commission regarding benefits allowed to administrators and responded to questions from the commission. Bruner, moved that the commission find that there is a substantial, objective basis for believing that Wayne Travillion may have violated ORS 244.040(1)(a) and 244.120(1)(c) and that the commission should investigate accordingly. Roll call vote was taken as follows: D. Jones, aye; Lewis, aye; Beggs, aye; J. Jones, aye; Bruner, aye. Motion passed unanimously.

(Tape 2B, 1.3)

AGENDA ITEM 49, No. 08-230EDT, Ed Royce Smith, Former Reynolds School District Director of Curriculum. Mr. Smith was present with council James M. Brown. Tuss summarized the case. Mr. Smith addressed the commission regarding his actions and his background. Counsel Brown suggested that the complaint be dismissed because of lack of implication. Bruner moved that the commission find that there is a substantial, objective basis for believing that Ed Royce Smith may have violated ORS 244.040(1)(a) and ORS 244.120(1)(c). Roll call vote was taken as follows: D. Jones, aye; Beggs, aye; Bruner, aye; J. Jones, aye; Lewis, nay. Motion passed 4 – 1.

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(Tape 2B, 16.5)

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

AGENDA ITEM 35, No. 08-188EDC, Gordon Kaesemeyer, Former Mayor, City of Halfway. Mr. Kaesemeyer was not present. The recommendation was that the commission move to investigate possible violations of ORS 244.040 and 244.120.

AGENDA ITEM 36, No. 08-190XDC, Gordon Kaesemeyer, Former Mayor, City of Halfway. Mr. Kaesemeyer was not present. The recommendation was that the commission move to investigate possible violations of ORS 192.660.

AGENDA ITEM 37, No. 08-191XDC, Donald Strom, Councilor, City of Halfway. Mr. Strom was not present. The recommendation was that the commission move to investigate possible violations of ORS 192.660.

AGENDA ITEM 38, No. 08-192XDC, Eric Kauffman, Councilor, City of Halfway. Mr. Kauffman was not present. The recommendation was that the commission move to investigate possible violations of ORS 192.660.

AGENDA ITEM 39, No 08-193XDC, Marion Crow, Councilor, City of Halfway. Ms. Crow was not present. The recommendation was that the commission move to investigate possible violations of ORS 192.660.

AGENDA ITEM 40, No. 08-194XDC, Jake Brown, Councilor, City of Halfway. Mr. Brown was not present. The recommendation was that the commission move to investigate possible violations of ORS 192.660.

AGENDA ITEM 41, No. 08-195XDC, Frances Gulick-Vaughan, Councilor, City of Halfway. Ms. Gulick-Vaughan was not present. The recommendation was that the commission move to investigate possible violations of ORS 192.660.

AGENDA ITEM 42, No. 08-196XDC, Randy Simrell, Councilor, City of Halfway. Mr. Simrell was not present. The recommendation was that the commission move to investigate possible violations of ORS 192.660.

AGENDA ITEM 43, No. 08-197XDC, Minden Wreden, Councilor, City of Halfway. Councilor Wreden was not present. The recommendation was that the commission move to investigate possible violations of ORS 192.660.

AGENDA ITEM 44, No. 08-211EDT, Bill Zelenka, Crook County Planning Director. Mr. Zelenka was not present. The recommendation was that the commission move to investigate possible violations of ORS 244.040(1) and 244.025(4)(a).

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AGENDA ITEM 45, No. 08-215EDT, Rick Schiedler, Mt. Angel Councilor. Mr. Schiedler was not present. The recommendation was that the commission move to investigate possible violations of ORS 244.040(1) and 244.120(2).

AGENDA ITEM 46, No. 08-226EDT, Jack Hoffman, Lake Oswego Councilor. Mr. Hoffman was not present. The recommendation was that the commission move to investigate possible violations of ORS 244.040(1)(a) and 244.120(2).

AGENDA ITEM 51, No. 08-234EDC, Laura Seeley, Teacher, Jewell School District No. 8. Ms. Seeley was not present. The recommendation was that the commission move to investigate possible violations of ORS 244.040(1)(a) and 244.120(1)(c).

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

End of Executive Session Consent Calendar

(Tape 2B, 17.9)

AGENDA ITEM 50, John Seeley, former Superintendent and Principal, Jewell School District No. 8. Mr. Seeley participated by telephone. Crabtree summarized the case. Mr. Seeley addressed the Commission regarding procedural processes and his rights as a respondent. Rosik advised Mr. Seeley of his rights to counsel. D. Jones reviewed procedural processes. Bruner moved that the Commission find that there is a substantial, objective basis for believing the John Seeley may have violated ORS 244.040(1)(a) and 244.120(1)(c). Roll call vote was taken as follows: Bruner, aye; J. Jones, aye; D. Jones, aye; Lewis, aye; Beggs, aye. Motion passed unanimously.

OTHER PRELIMINARY REVIEWS

None.

OTHER ITEMS

Own Motion Reviews

None.

Other Items

(Tape 2B, 33.3)

AGENDA ITEM 55, Review of Pending Litigation. Rosik and Bersin summarized the pending litigation for the Commission.

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The commission reviewed the following agenda items without comment:

AGENDA ITEM 52, No. 09-105EAI, Milton Finch, Sr. re Port Orford Councilor.

AGENDA ITEM 53, No. 09-106EAI, David Trapp re Mt. Angel Councilor.

AGENDA ITEM 54, Summary of Pending Cases.

(Tape 2B, 34.5)

The commission reconvened into regular session at 12:17 p.m.

(Tape 2B, 34.6)

AGENDA ITEM 34, Director's Report, Bersin summarized budget issues, litigation, layoffs, other fund fee assessments, and electronic reporting system. (Tape 3A) Bersin summarized the elements of SB30.

The commission discussed moving the June 26 meeting into July or having a teleconference meeting. Staff to email proposed dates to commission members.

CORRESPONDENCE RECEIVED/RESPONSES

Lobbying Client/Employer Penalty Correspondence

(Tape 3A, 5.5)

The commission discussed penalty options for the following items:

AGENDA ITEM 11, Oregon Liability Reform Coalition 3rd quarter report.

AGENDA ITEM 12, Oregon Association of Independent Accountants 3rd quarter report.

AGENDA ITEM 13, Trillium Family Services 3rd quarter report.

AGENDA ITEM 14, Western States Petroleum Association 3rd quarter report.

Lewis moved that items 11-14 be issued letters of education in lieu of imposition of accrued penalties. Roll call vote was taken as follows: Beggs, aye; Bruner, aye; J. Jones, aye; Lewis, aye; D. Jones, aye. Motion passed unanimously.

Staff Opinions

The commission reviewed the following item without comment:

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AGENDA ITEM 19, No. 09S-001, Randall Tosh re city official's use of telecommunications devices according to city's usage policy.

Staff Advice

The commission reviewed the following items with comment:

AGENDA ITEM 20, Jim Everitt re fire district employee providing private consulting services.

AGENDA ITEM 21, John Brenneman re offering food and beverage to legislators invited to attend an event.

AGENDA ITEM 22, J. Kenneth Jones re fire district board member participating in decisions affecting a relative.

AGENDA ITEM 23, John M. Gray re public official participating in decision that may affect a relative.

Other Correspondence

The commission reviewed the following items without comment:

AGENDA ITEM 24, No. 09-102ENJ, Kristen Grainger re Representative Holvey.

AGENDA ITEM 25, No. 09-103ENJ, Nancy Wolfgram re land use issues in Douglas County.

AGENDA ITEM 26, No. 09-104ENJ, Morgan Sanchez re BOLI employee.

AGENDA ITEM 27, No. 09-106ENJ, David Trapp re East Valley Water District.

AGENDA ITEM 28, No. 09-107ENJ, Ty Merrill re Culver City Councilor AnzINETTE Adams.

AGENDA ITEM 29, No. 09-108ENJ, Ty Merrill re Culver city Councilor Thelma Kruger.

AGENDA ITEM 30, No. 09-109ENJ, Ty Merrill re Culver city Councilor Shawna Clanton.

AGENDA ITEM 31, No. 09-110ENJ, Peter Ferris re lobbyist John Vanlandingham.

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MISCELLANEOUS ITEMS

(Tape 3A, 9.1)

AGENDA ITEM 33, Election of Commission Chair and Vice Chair for 2009. Bruner nominated D. Jones to remain as Chair and J. Jones as Vice Chair. Roll call vote was taken as follows: Beggs, aye; Bruner, aye; Jones. J, aye; Lewis, aye; Jones. D, aye. Motion passed unanimously.

(Tape 3A, 10.3)

AGENDA ITEM 32, Association of Oregon Counties policy review. The commission reviewed and discussed the policy. J. Jones moved that the commission approve the policy. Roll call vote was taken as follows: Lewis, aye; Beggs, aye; Bruner, aye; J. Jones, aye; D. Jones, aye. Motion passed unanimously.

(Tape 3A, 11.8) D. Jones discussed ex parte contact issues and cautioned the commission members about contact with parties before, during or after meetings.

(Tape 3A, 13.9)

Lewis questioned the findings in the advice matter of Item 23 regarding a public official participating in decision that may affect a relative. The commission discussed voting issues and the rule of necessity.

(Tape 3A, 16.8)

Discussion of Pending Legislation. Bersin provided an overview of his activity in, and the status of, pending legislation.

(Tape 3A, 18.5)

Lewis questioned the content of the complaint in Item 27 and Bersin addressed the non-jurisdictional finding.

(Tape 3A, 20.5)

Chair D. Jones adjourned the meeting of the Oregon Government Ethics Commission at 12:52 p.m.

The next scheduled meeting date of the Oregon Government Ethics Commission is set for May 1, 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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