

OREGON GOVERNMENT ETHICS COMMISSION

MEETING MINUTES

June 4, 2010

9:00 a.m.

(Tape 1A, 0.1)

Chair Charles Beggs called the meeting to order at 9:05 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, Heather Van Meter, Larry Campbell, and Ian Whitlock. Gary Wilhelms arrived at 9:20 a.m. JoAnn Waller and was excused from attendance. Staff present were Executive Director Ron Bersin, Investigator Don Crabtree, Investigator Deborah Tuss, Trainer Lindsay Bassler, Trainer Tammy Hedrick, Program Analyst Virginia Lutz, and OGEC Counsel Lynn Rosik.

(Tape 1A, 0.4)

AGENDA ITEM 1, Approval of amended minutes of the January 15, 2010 meeting. The Commission approved the minutes without corrections.

AGENDA ITEM 2, Approval of minutes of the April 23, 2010 meeting. The Commission approved the minutes without corrections.

CONSENT CALENDAR

(Tape 1A, 0.8)

Items 3 and 5 were removed from the consent calendar for comment.

(Tape 1A, 1.3)

Whitlock recused himself from participation in Agenda Item 3 regarding the Oregon Public Ports Association because his employer is the Port of Portland who is a member of the Oregon Ports Association.

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

Reports of Investigation

None.

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Lobbying Client/Employer Penalty Correspondence

The parties in the following item did not address the Commission. The staff recommendation on each of the following was to issue a letter of education:

AGENDA ITEM 4: Portland Public Schools, 4th qtr 2009

Statement of Economic Interest Penalty Correspondence

The parties in the following items did not address the Commission. The staff recommendation on each of the following is to issue a letter of education:

AGENDA ITEM 6, Larry Hardie, Condon Planning Commission

AGENDA ITEM 7, Nenice Andrews, Hillsboro Council

AGENDA ITEM 8, Michele Wilcox, Harrisburg Planning Commission

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

End of Consent Calendar

Lobbying Client/Employer Penalty Correspondence

(Tape 1A, 3.4)

AGENDA ITEM 3, Oregon Public Ports Association, 4th qtr 2009. Beggs moved to approve staff recommendation to issue a letter of education. Roll call vote was taken as follows: Van Meter, aye; Whitlock, abstain; Campbell, aye; Lewis, aye; Beggs, aye; Motion passed 4-0.

Wilhelms arrived at 9:20 a.m.

(Tape 1A, 3.7)

AGENDA ITEM 5, Oregon Shores Conservation Coalition, 4th qtr 2009 2nd violation. Lewis questioned penalty amount. Lewis moved to approve staff recommendation of a reduction of the penalty to \$99. Roll call vote was taken as follows: Campbell, aye; Lewis, aye; Van Meter, aye; Whitlock, aye Wilhelms, aye; Beggs, aye. Motion passed unanimously.

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MISCELLANEOUS CORRESPONDENCE

(Tape 1A, 3.9)

Lobbying Client/Employer Penalty Correspondence

AGENDA ITEM 9 and 9A, Native American Rehabilitation Assn of the Northwest, 2nd and 3rd qtr 2009. Lutz summarized the issues. Kelly Knivela, counsel to NARA, Jacqueline Mercer, NARA representative, and Lobbyist Michael Mason, addressed the Commission. The Commission discussed mailings not received and how to handle multiple quarter penalties. Van Meter moved to issue a letter of education for both 2nd and 3rd quarter violations. The Commission discussed the issues.

(Tape 1A, 26.9)

Lewis moved to separate the items in Van Meter's motion. Roll call vote to separate was taken as follows: Campbell, aye; Lewis, aye; Wilhelms, aye; Beggs, aye; Whitlock, aye; Van Meter, nay. Motion passed 5-1.

Van Meter moved to issue a letter of education on item 9. Roll call vote was taken as follows: Campbell, nay; Lewis, nay; Wilhelms, nay; Beggs, nay; Whitlock, aye; Van Meter, aye. Motion failed 4-2.

Lewis moved to approve the staff recommendation to reduce the penalty to \$239 on item 9. Roll call vote was taken as follows: Campbell, aye; Lewis, aye; Wilhelms, aye; Beggs, aye; Whitlock, aye; Van Meter, nay. Motion passed 5-1.

Van Meter moved to approve the staff recommendation to issue a letter of education in lieu of penalty on item 9a. Roll call vote was taken as follows: Campbell, aye; Lewis, aye; Wilhelms, aye; Beggs, aye; Whitlock, aye; Van Meter, aye. Motion passed unanimously.

STIPULATED FINAL ORDERS

(Tape 1A, 30.5)

AGENDA ITEM 10, No. 08-233EDC, John H. Seeley, Superintendent, Jewell School District. Mr. Seeley did not address the Commission. Bersin summarized the case history. 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: Campbell, aye; Lewis, aye; Wilhelms, aye; Beggs, aye; Whitlock, aye; Van Meter, aye. Motion passed unanimously.

(Tape 1A, 35.4)

AGENDA ITEM 11, No. 09-171EDC, Katherine Dougherty, fka Brownback, Building Codes Inspector, Hood River County Planning and Building Dept. Ms. Dougherty did not address the Commission. Bersin summarized the case history. Campbell moved

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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: Campbell, aye; Lewis, aye; Wilhelms, aye; Beggs, aye; Whitlock, aye; Van Meter, aye. Motion passed unanimously.

(Tape 1A, 41.8)

AGENDA ITEM 11a, No. 10-102EDC, Linda Wagner, former Senior Lane Co Dept of Youth Services Management Analyst. Bersin summarized the case history. Lewis 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: Campbell, aye; Lewis, aye; Wilhelms, aye; Beggs, aye; Whitlock, aye; Van Meter, aye. Motion passed unanimously.

DEFAULT FINAL ORDERS

None.

CONTESTED CASE PROPOSED FINAL ORDERS

None.

REPORTS OF INVESTIGATIONS

None.

ADVISORY OPINIONS

None.

CORRESPONDENCE RECEIVED/RESPONSES

Staff Opinions

(Tape 1a, 45.5)

The Commission reviewed the following item without comment:

AGENDA 12, No. 10S-001, John Morgan re a person who has a contract to provide services as a city planner and has been offered an ownership or employment opportunity by a property development business.

Staff Advice

None.

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Other Correspondence

(Tape 1a, 46.9)

The Commission reviewed the following items without comment:

AGENDA ITEM 13, No. 10-114ENJ, Lynn Fox re West Linn Councilor John Kovash

AGENDA ITEM 14, No. 10-120XNJ, Marcia Kemp re Lexington Mayor, Valerie Doherty

AGENDA ITEM 15, No. 10-124XNJ, Lynn Fox re West Linn City Manager, Chris Jordan

AGENDA ITEM 17, No. 10-145ENJ, Marni Zollinger re Metro Auditor, Suzanne Flynn

AGENDA ITEM 18, No. 10-146ENJ, Marni Zollinger re Troutdale City Administrator, Ron Ganzini

AGENDA ITEM 19, No. 10-147ENJ, Marni Zollinger re Metro Councilor, Rod Park

AGENDA ITEM 20, No. 10-148ENJ, Marni Zollinger re Metro Deputy Operation Officer, Scott Robinson

AGENDA ITEM 21, No. 10-149ENJ, Marni Zollinger re Troutdale Councilor, Matthew Wand

AGENDA ITEM 22, No. 10-150ENJ, Marni Zollinger re Troutdale Mayor, Jim Kight

(Tape 1b, 0.1)

AGENDA ITEM 16, No. 10-125ENJ, James Willis re former State Senator and sitting Yamhill County Commissioner, Gary George and Kathy George. Kathleen Blair, Marcie Kose... (Unable to read sign-in sheet signature), and James Willis addressed the Commission regarding the elements of the complaint. Bersin summarized issues, non-jurisdiction determination, and issues surrounding campaign finance. The Commission discussed its jurisdiction. Rosik advised regarding ethics law versus campaign finance law.

MISCELLANEOUS ITEMS

(Tape 1b, 013.9)

AGENDA ITEM 23, No. 08-220EDT, Kenneth Condon Manager, Oregon Department of Fish and Wildlife. Motion to set aside March 5, 2010 Final Order of Default and Memorandum in Support. Bersin summarized the case history. Kenneth Condon and Deryl Nielsen, counsel, addressed the Commission regarding mailing and service issues. Rosik advised Commission regarding their action options. Nielsen addressed timelines for filings and interpretations. (Tape 2a) Van Meter moved to deny motion to

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set aside final order. Roll call vote was taken as follows: Campbell, aye; Lewis, aye; Wilhelms, aye; Beggs, aye; Whitlock, aye; Van Meter, aye. Motion passed unanimously.

(Tape 2a, 3.0)

The Commission convened into executive session at 10:20 a.m. to consider preliminary review 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

Items 26 and 27 were removed from the consent calendar for comment or appearance by parties wishing to address the Commission.

(Tape 2a, 4.2)

AGENDA ITEM 26, No. 09-169EDC, Beverly Calder Baker City Council. Crabtree summarized the case. Ms. Calder addressed the Commission, by telephone, regarding intent of ordinances for public safety and her actions to make the property in question safe. Wilhelms moved that the Commission find that the complaint and information before the Commission does not indicate a violation of ORS Chapter 244.120(2)(a) or warrant further review and that this complaint be dismissed. Roll call vote was taken as follows: Campbell, aye; Lewis, aye; Wilhelms, aye; Beggs, aye; Whitlock, aye; Van Meter, nay. Motion passed 5-1.

(Tape 2a, 23.1)

The Commission recessed at 11:05 a.m. and reconvened into executive session at 11:15 a.m.

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

AGENDA ITEM 28, No. 10-103XDC, Carol Reese, Echo School District Board of Directors. Ms. Reese did not address the Commission. The recommendation was that the Commission find that the complaint and information before the Commission does not indicate a violation of ORS Chapter 192.660 or warrant further review and that this complaint be dismissed.

AGENDA ITEM 29, No. 10-104XDC, Shannon Hensell, fka Madison, Echo School District Board of Directors. Ms. Hensell did not address the Commission. The recommendation was that the Commission find that the complaint and information

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before the Commission does not indicate a violation of ORS Chapter 192.660 or warrant further review and that this complaint be dismissed.

AGENDA ITEM 30, No. 10-105XDC, Delbert Gerrke, Echo School District Board of Directors. Mr. Gerrke did not address the Commission. The recommendation was that the Commission find that the complaint and information before the Commission does not indicate a violation of ORS Chapter 192.660 or warrant further review and that this complaint be dismissed.

AGENDA ITEM 31, No. 10-106XDC, Bradley Eby, Echo School District Board of Directors. Mr. Eby did not address the Commission. The recommendation was that the Commission find that the complaint and information before the Commission does not indicate a violation of ORS Chapter 192.660 or warrant further review and that this complaint be dismissed.

AGENDA ITEM 32, No. 10-107XDC, Lloyd Ferge, Echo School District Board of Directors. Mr. Ferge did not address the Commission. The recommendation was that the Commission find that the complaint and information before the Commission does not indicate a violation of ORS Chapter 192.660 or warrant further review and that this complaint be dismissed.

AGENDA ITEM 33, No. 10-108XDC, Eric Volger, Echo School District Board of Directors. Mr. Volger did not address the Commission. The recommendation was that the Commission find that the complaint and information before the Commission does not indicate a violation of ORS Chapter 192.660 or warrant further review and that this complaint be dismissed.

AGENDA ITEM 34, No. 10-112EDT, Tishri Tucker, Willamette Education Service District, Executive Assistant. Ms. Tucker did not address the Commission. The recommendation was that the Commission find that there is a substantial, objective basis for believing that Tishri Tucker may have violated ORS 244.040(1) and that the Commission should investigate accordingly.

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

End of Executive Session Consent Calendar

Reports of Preliminary Review

(Tape 2a, 25.8)

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AGENDA ITEM 27, No. 09-183EDC, Jesus “Junior” Gabriel, Lake County Fair Board of Directors. Mr. Gabriel did not address the Commission. Crabtree summarized the case. The Commission discussed relatives. Van Meter moved that the Commission find that there is a substantial, objective basis for believing that Jesus “Junior” Gabriel may have violated ORS 244.177(1)(b) and that the Commission should investigate accordingly. Roll call vote was taken as follows: Campbell, nay; Lewis, aye; Wilhelms, nay; Beggs, aye; Whitlock, aye; Van Meter, aye. Motion passed 4-2.

OTHER PRELIMINARY REVIEWS

None.

OTHER ITEMS

Own Motion Reviews

(Tape 2a, 30.0)

AGENDA ITEMS 35 and 36, Possible own motion preliminary review re: Michael D. Mason Lobbyist. Lutz summarized cases. Mason addressed the Commission regarding lobbying history and suggests he was in error for not understanding the rules. The Commission discussed filing rules. Lewis moved that the Commission conduct a preliminary review to determine if there is cause to investigate whether Michael D. Mason has violated ORS Chapter 171. Roll call vote was taken as follows: Campbell, aye; Lewis, aye; Wilhelms, aye; Beggs, aye; Whitlock, aye; Van Meter, aye. Motion passed unanimously.

(Tape 2b, 3.3)

AGENDA ITEM 37, Possible own motion preliminary review re: Kelly Ross, Lobbyist. Lutz summarized the case. Ross did not address the Commission. Lewis moved that the Commission conduct a preliminary review to determine if there is cause to investigate whether Kelly Ross has violated ORS Chapter 171. Roll call vote was taken as follows: Campbell, aye; Lewis, aye; Wilhelms, aye; Beggs, aye; Whitlock, aye; Van Meter, aye. Motion passed unanimously.

(Tape 2b, 4.0)

AGENDA ITEM 38, Possible own motion preliminary review re: Ken Armstrong, Lobbyist. Lutz summarized the case. Armstrong did not address the Commission. Lewis moved that the commission conduct a preliminary review to determine if there is cause to investigate whether Ken Armstrong has violated ORS Chapter 171. Roll call vote was taken as follows: Campbell, aye; Lewis, aye; Wilhelms, aye; Beggs, aye; Whitlock, aye; Van Meter, aye. Motion passed unanimously

Other Items

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

(Tape 2b, 4.5)

AGENDA ITEM 39, No. 10-121EAI, Daniel Howard re Bly Sanitary Water and Sewer District Board Member, Robert Tucker. The Commission discussed the background of additional information requests.

AGENDA ITEM 40, No. 10-122EAI, Daniel Howard re Bly Sanitary Water and Sewer District Board Member, Robert Tucker

AGENDA ITEM 41, No. 10-123EAI, Bill Essig re Bly Sanitary Water and Sewer District Board Member, Robert Tucker

AGENDA ITEM 42, No. 10-126EAI, Nanci Staples re City of Oakland officials

AGENDA ITEM 43, No. 10-151EAI, Laurie Boyce re Aurora City Council members, Jim Meiorow, Greg Taylor, Scott Brotherton, Bill Sahlin and Terri Roberts

AGENDA ITEM 44, No. 10-152EAI, Laurie Boyce re Aurora Public Works Superintendent, Robert Southard

AGENDA ITEM 45, No. 10-153XAI, Steve Caraway re CCSD Board Member, Steve Caraway

(Tape 2b, 7.8)

AGENDA ITEM 47, Review of Pending Litigation. Rosik reviewed status of pending litigation.

(Tape 2b, 8.5)

AGENDA ITEM 46, Summary of Pending Cases. The Commission reviewed the list of pending cases without comment.

(Tape 2b, 8.6)

The Commission convened into regular session at 11:47 a.m.

(Tape 2b, 8.7)

AGENDA ITEM 24, Trainer's Report. Hedrick summarized training program activity. Bassler summarized training module development for internet use.

(Tape 2b, 20.0)

AGENDA ITEM 25, Director's Report. Bersin summarized the treasury investigation status, budget shortfalls, plans to meet potential cuts, and the report to legislature regarding status report of electronic filing system.

(Tape 2b, 25.0)

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The Commission and staff presented a plaque to Investigator Don Crabtree upon retirement.

ADJOURNMENT

(Tape 2b, 27.4)

Beggs adjourned the meeting of the Oregon Government Ethics Commission at 12:10 p.m.

The next scheduled meeting date of the Oregon Government Ethics Commission is set for July 23, 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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