

OREGON GOVERNMENT ETHICS COMMISSION

MEETING MINUTES

July 23, 2010

9:00 a.m.

(Tape 1a, 0.1)

Chair Charles Beggs called the meeting to order at 9:00 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, JoAnn Waller, Larry Campbell, Ian Whitlock, and Gary Wilhelms. Heather Van Meter was excused from attendance. Staff present were Executive Director Ron Bersin, Investigator Tammy Hedrick, Investigator Deborah Tuss, Trainer Linsay Bassler, Program Analyst Virginia Lutz, Administrative Specialist Amber Kerlee, and OGEC Counsel Lynn Rosik.

(Tape 1a, 0.2)

AGENDA ITEM 1, Approval of minutes of the June 4, 2010 meeting. The Commission approved the minutes without corrections.

CONSENT CALENDAR

(Tape 1a, 0.3)

Items 5, 6, 13, 20, 30, and 46 were removed from the consent calendar for comment.

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

Reports of Investigation

None.

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 2, Alzheimer's Association Oregon Chapter, 4th qtr 2009

AGENDA ITEM 3, Oregon Coalition against Domestic and Sexual Violence, 1st qtr 2010

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AGENDA ITEM 4, Oregon Conservation Network, 1st qtr

Lobbyist Penalty Correspondence

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

AGENDA ITEM 7, Katy Daily, 1st qtr 2010

AGENDA ITEM 8, Matt Swanson, 1st qtr 2010

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 was to issue a letter of education:

AGENDA ITEM 9, Deborah Bentz, Harney County Planning Commission

AGENDA ITEM 10, Alan Blair, Baker City Planning Commission

AGENDA ITEM 11, Robert Burton, Union Planning Commission

AGENDA ITEM 12, James (Ed) Criss, Deschutes County Planning Commission

AGENDA ITEM 14, Amber Deibel, Sheridan Planning Commission

AGENDA ITEM 15, Brendon DeMuth, Sutherlin Planning Commission

AGENDA ITEM 16, Roy Durfee, Long Creek SD 17

AGENDA ITEM 17, Tim Fox, Lebanon Council

AGENDA ITEM 18, Dave Fowler, Heppner Planning Commission

AGENDA ITEM 19, Robin Froerer-Meyers, Malheur Co. Planning & Zoning Commission

AGENDA ITEM 21, Elaine Gesik, Salem Historic Landmarks Commission

AGENDA ITEM 22, Kevin Headings, Stanfield SD 61

AGENDA ITEM 23, Jimmie Hilderbrand, Halfway Council

AGENDA ITEM 24, Dan Hoke, Burns Council

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AGENDA ITEM 25, Laura Horsey, West Linn Planning Commission

AGENDA ITEM 26, Steve Hurst, Wilsonville Councilor

AGENDA ITEM 27, Carolyn Hymes, Forest Grove Planning Commission

AGENDA ITEM 28, Keith Jehnke, Durham Planning Commission

AGENDA ITEM 29, Kevin Kenagy, Woodburn Planning Commission

AGENDA ITEM 31, Carol Kowash, Dallas Planning Commission

AGENDA ITEM 32, Craig LaFollette, Burns Council

AGENDA ITEM 33, Will Lemmon, Lexington Council

AGENDA ITEM 34, Douglas Lethin, Salem Historic Landmarks Commission

AGENDA ITEM 35, John McCormick, Gates Planning Commission

AGENDA ITEM 36, Marlys Miller, Antelope City Recorder

AGENDA ITEM 37, Daniel Modrell, Nehalem Council

AGENDA ITEM 38, David Morris, Yamhill Planning Commission

AGENDA ITEM 39, Krag Norton, Lostine Mayor

AGENDA ITEM 40, Lai-Lani Ovalles, Portland Planning Commission

AGENDA ITEM 41, George Passadore, Tri-Met Board

AGENDA ITEM 42, Eric Postma, Wilsonville Development Review Board

AGENDA ITEM 43, Charles Riddle, Port of Gold Beach Commission

AGENDA ITEM 44, William Todd Schultz, Gearhart Planning Commission

AGENDA ITEM 45, Greg Sheppard, Detroit Council

AGENDA ITEM 47, Richard Speer, Nehalem Planning Commission

AGENDA ITEM 48, Danny Steele, North Bend Planning Commission

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AGENDA ITEM 49, Jason Tree, Bandon Planning Commission

AGENDA ITEM 50, John Waldron, Moro Council

AGENDA ITEM 51, Dan Weaver, Independence Historical Preservation Commission

AGENDA ITEM 52, Rick Woodley, Malin Planning Commission

AGENDA ITEM 53, Diane Zurick, Columbia County Planning Commission

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

End of Consent Calendar

Lobbying Client/Employer Penalty Correspondence

(Tape 1a, 1.5)

AGENDA ITEM 5, Wildlife Society, Oregon Chapter, 2nd violation. Campbell moved to impose a \$50 penalty. Roll call vote was taken as follows: Campbell, aye; Lewis, aye; Waller, aye; Wilhelms, aye; Beggs, aye; Whitlock, aye. Motion passed unanimously.

Lobbyist Penalty Correspondence

(Tape 1a, 3.4)

AGENDA ITEM 6, Colin Cochran, 1st qtr 2010. The Commission discussed return of mail. Beggs moved to approve staff recommendation to issue a letter of education. Roll call vote was taken as follows: Campbell, aye; Lewis, aye; Waller, aye; Wilhelms, aye; Beggs, aye; Whitlock, aye. Motion passed unanimously.

Statement of Economic Interest Penalty Correspondence

(Tape 1a, 5.1)

AGENDA ITEM 13, Robert Deharpport, Westfir Council. The Commission discussed letter of explanation and penalty. Campbell moved to impose a \$50 penalty. Roll call vote was taken as follows: Campbell, aye; Lewis, aye; Waller, nay; Wilhelms, nay; Beggs, aye; Whitlock, nay. Motion failed 3:3.

Campbell moved to impose a 10% penalty. Roll call vote was taken as follows: Campbell, aye; Lewis, aye; Waller, nay; Wilhelms, nay; Beggs, aye; Whitlock, nay. Motion failed 3:3.

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Beggs moved to approve staff recommendation to issue a letter of education. Roll call vote was taken as follows: Campbell, nay; Lewis, nay; Waller, aye; Wilhelms, aye; Beggs, aye; Whitlock, aye. Motion passed 4:2.

(Tape 1a, 16.2)

AGENDA ITEM 20, Fred Gerding, Oakridge Planning Commission. The Commission discussed responding to questions in Mr. Gerding's letter. Campbell moved to approve staff recommendation to issue a letter of education. Roll call vote was taken as follows: Campbell, aye; Lewis, aye; Waller, aye; Wilhelms, aye; Beggs, aye; Whitlock, aye. Motion passed unanimously.

(Tape 1a, 19.9)

AGENDA ITEM 30, Jeff Klein, Milwaukie Planning Commission. The Commission discussed the letter of explanation. Campbell moved to approve staff recommendation to issue a letter of education. Roll call vote was taken as follows: Campbell, aye; Lewis, aye; Waller, aye; Wilhelms, aye; Beggs, aye; Whitlock, aye. Motion passed unanimously.

(Tape 1a, 21.5)

AGENDA ITEM 46, O. Kent Smith, Elkton Council. The Commission discussed the letter of explanation. Campbell moved to impose a \$60 penalty. Roll call vote was taken as follows: Campbell, aye; Lewis, aye; Waller, nay; Wilhelms, nay; Beggs, aye; Whitlock, nay. Motion failed 3:3.

Wilhelms moved to approve staff recommendation to issue a letter of education. Roll call vote was taken as follows: Campbell, nay; Lewis, nay; Waller, aye; Wilhelms, aye; Beggs, aye; Whitlock, aye. Motion passed 4-2.

(Tape 1a, 30.6)

The Commission convened into executive session at 9:35 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

(Tape 1a, 32.0)

Items 75, 76, 92, and 93 were removed from the consent calendar for comment or appearance by parties wishing to address the Commission.

Waller moved for approval of the balance of the executive session consent calendar items as follows and the recommended action on each. The parties did not address the Commission.

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AGENDA ITEM 77, No. 10-127XDC, Jack Stoops, Willamette ESD Superintendent Search Subcommittee member. 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 78, No. 10-128XDC, Ruth Hewitt, Willamette ESD Superintendent Search Subcommittee member. 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 79, No. 10-129XDC, Ed Dodson, Willamette ESD Superintendent Search Subcommittee member. 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 80, 10-130XDC, Sandy Husk, Willamette ESD Superintendent Search Subcommittee member. 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 81, No. 10-131XDC, Paula Radich, Willamette ESD Superintendent Search Subcommittee member. 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 82, No. 10-132XDC, Robin Stoutt, Willamette ESD Superintendent Search Subcommittee member. 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 83, No. 10-133XDC, Greg Ellis, Willamette ESD Superintendent Search Subcommittee member. 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 84, No. 10-134XDC, Dana Pederson, Willamette ESD Superintendent Search Subcommittee member. 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 85, No. 10-135XDC, Cynthia Stinson, Willamette ESD Superintendent Search Subcommittee member. The recommendation was that the Commission find

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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 86, No. 10-136XDC, Tom Beach, Willamette ESD Superintendent Search Subcommittee member. 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 87, No. 10-137XDC, Jason Fetro, Willamette ESD Superintendent Search Subcommittee member. 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 88, No. 10-138XDC, Gianna Ark, Willamette ESD Superintendent Search Subcommittee member. 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 89, No. 10-139XDC, Dean Harry, Willamette ESD Superintendent Search Subcommittee member. 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 90, No. 10-140XDC, Brian Hilsabeck, Willamette ESD Superintendent Search Subcommittee member. 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 91, No. 10-141XDC, David McKay, Willamette ESD Superintendent Search Subcommittee member. 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.

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

End of Executive Session Consent Calendar

Reports of Preliminary Review

(Tape 1a, 34.9)

AGENDA ITEM 75, No. 10-109EDT, Cindy Simmons, Winchester Bay Sanitary District Board of Directors. Tuss summarized the case. Counsel Ron Downs was present but

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did not address the Commission. (Tape 1b) The Commission discussed the facts of the case. Campbell moved that the Commission find that the complaint and information before the Commission do not indicate a violation of ORS chapter 244 or warrant further review and that this complaint be dismissed. Roll call vote was taken as follows: Campbell, aye; Lewis, aye; Waller, aye; Wilhelms, aye; Beggs, aye; Whitlock, aye. Motion passed unanimously.

(Tape 1b, 2.5)

AGENDA ITEM 76, No. 10-117EDC, J. Kevin Henson, Fire Chief, Willamette Valley Fire & Rescue Authority. Mr. Henson was present with Counsel Christy Monson and District Board Chair Ken Morin. Chief Henson waived confidentiality to allow representatives from local associations to be present during the discussion of the case. Ron Downs, Scott Winkles, and Genea Ingram were present but did not address the Commission. Hedrick summarized the case. Counsel Monson, Mr. Morin, and Chief Henson were present and addressed the Commission regarding compensation and reimbursement policy, district practices, organizational makeup, internal workings, and reporting structure. The Commission discussed district policy. (Tape 2a) Lewis moved that the Commission find that the complaint and information before the Commission do not indicate a violation of ORS chapter 244 or warrant further review and that this complaint be dismissed. Roll call vote was taken as follows: Campbell, aye; Lewis, aye; Waller, aye; Wilhelms, aye; Beggs, aye; Whitlock, aye. Motion passed unanimously.

(2a, 11.1)

The Commission recessed at 9:47 a.m. and reconvened into executive session at 10:02 a.m.

(2a, 13.8)

AGENDA ITEM 92, No. 10-143ETH, Tim Kerns, Baker Valley Soil and Water District Board Chair. Mr. Kerns participated by telephone. Hedrick summarized the case. Mr. Kerns addressed the Commission regarding bidding processes and concrete pillar construction. Lewis moved that the Commission find that there is a substantial, objective basis for believing that Tim Kerns may have violated ORS 244.040(1)(a) and ORS 244.120 and that the Commission should investigate accordingly. Roll call vote was taken as follows: Campbell, aye; Lewis, aye; Waller, aye; Wilhelms, aye; Beggs, aye; Whitlock, aye. Motion passed unanimously.

(2a, 26.1)

AGENDA ITEM 93, No. 10-144ETH, Laurie Owens, Baker Valley Soil and Water Conservation District Manager. Ms. Owens participated by telephone. Hedrick summarized the case. Ms. Owens addressed the Commission regarding facts of the case. Wilhelms moved that the Commission find that the complaint and information before the Commission do not indicate a violation of ORS chapter 244 or warrant further review and that this complaint be dismissed. Roll call vote was taken as follows:

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Campbell, aye; Lewis, aye; Waller, aye; Wilhelms, aye; Beggs, aye; Whitlock, aye.
Motion passed unanimously.

OTHER PRELIMINARY REVIEWS

None.

OTHER ITEMS

Own Motion Reviews

None

Other Items

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

(Tape 2a, 42.5)

AGENDA ITEM 94, No. 10-158LTH, motion to expand investigation regarding Michael Mason, Lobbyist. Mr. Mason did not address the Commission. Hedrick summarized the case. Lewis moved that the Commission find that there is a substantial, objective basis for believing that Michael Mason has violated ORS 171 and that the Commission should expand its investigation accordingly. Roll call vote was taken as follows: Campbell, aye; Lewis, aye; Waller, aye; Wilhelms, aye; Beggs, aye; Whitlock, aye. Motion passed unanimously.

(Tape 2a, 47.2)

AGENDA ITEM 95, No. 10-154EAI, Duayne Scott Fowler re Todd Kellstrom, Klamath Falls Mayor.

AGENDA ITEM 96, No. 10-156XAI, Darlene Coffey and Christine Bridgens re Linda Dugan, Warrenton-Hammond School District Board Chair

AGENDA ITEM 97, No. 10-155EAI, Joel Sacks, City Attorney

No. 10-161EAI, Cliff Jenson, City Councilor

No. 10-162EAI, Dave May, City Councilor

No. 10-163EAI, Ruth Daugherty, City Councilor

No. 10-164EAI, Sue Wilson, City Councilor

No. 10-165EAI, Luann Swanson, City Councilor

Jack Brownlee re Rockaway Beach public officials

(Tape 2a, 47.3)

AGENDA ITEM 98, Summary of Pending Cases. The Commission reviewed the list of pending cases without comment

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AGENDA ITEM 99, Review of Pending Litigation. Rosik reviewed status of pending litigation.

(Tape 2a, 47.8)

The Commission convened into regular session at 11:32 a.m.

REPORTS OF INVESTIGATIONS

(Tape 2b, 1.2)

AGENDA ITEM 61, No. 09-197EDC, Darrin N. Humphreys, Former Oregon Youth Authority Facility Director and Superintendent. Mr. Humphreys did not address the Commission. Hedrick summarized the case. Lewis moved that the Commission find that there is sufficient evidence to find 28 violations of ORS Chapter 244.040 (1)(a) by Darrin N. Humphreys, 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; Waller, aye; Wilhelms, aye; Beggs, aye; Whitlock, aye. Motion passed unanimously.

(Tape 2b, 4.6)

AGENDA ITEM 60, No. 09-184EDT, Jim Baker, Jr. Former Manager, Bly Water and Sanitary District. Mr. Baker did not address the Commission. Campbell moved that the Commission find that there is sufficient evidence to find 9 violations of ORS Chapter 244.040 (1)(a) in 2007 and 45 violations of ORS 244.0401 (1) in 2008 and 2009, by Jim Baker, 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; Waller, aye; Wilhelms, aye; Beggs, aye; Whitlock, aye. Motion passed unanimously.

STIPULATED FINAL ORDERS

(Tape 2b, 7.3)

AGENDA ITEM 54, No. 09-123EDT, Dean Lawrence, Bly Water and Sanitary District Board of Directors.

AGENDA ITEM 55, No. 09-124EDT, John Lansdowne, Bly Water and Sanitary District Board of Directors

AGENDA ITEM 56, No. 09-125EDT, Robert Tucker, Bly Water and Sanitary District Board of Directors

AGENDA ITEM 57, No. 09-126EDT, Bill Bell, Bly Water and Sanitary District Board of Directors

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AGENDA ITEM 58, No. 09-127EDT, Gloria Buchanan, Bly Water and Sanitary District Board of Directors

Lewis moved that the Commission approve the proposed stipulated final orders in Agenda Items 54-58 as the final order in these matters and that the chairperson be authorized to sign them as such. Roll call vote was taken as follows: Campbell, aye; Lewis, aye; Waller, aye; Wilhelms, aye; Beggs, aye; Whitlock, aye. Motion passed unanimously.

(Tape 2b, 8.6)

AGENDA ITEM 59, No. 09-183EDC, Junior Gabriel, Lake County Fairgrounds Board of Directors. Whitlock 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; Waller, aye; Wilhelms, aye; Beggs, aye; Whitlock, aye. Motion passed unanimously.

DEFAULT FINAL ORDERS

None.

CONTESTED CASE PROPOSED FINAL ORDERS

None.

CORRESPONDENCE RECEIVED/RESPONSES

Staff Opinions

None.

Staff Advice

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

(Tape 2b, 9.6)

AGENDA ITEM 62, John Patterson, Medford Fire-Rescue re outside employment associated with his public official position. The Commission discussed facts.

AGENDA ITEM 63, Donald Otterman, City of North Plains, re two employee's possible conflicts of interest.

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Other Correspondence

(Tape 2b, 11.8)

AGENDA ITEM 64, No. 10-151ENJ, Laurie Boyce re Aurora City Council members Jim Meirow, Greg Taylor, Bill Sahlin, Terri Roberts and Scott Brotherton. The Commission discussed the notice statement on the signature line of the complaint form.

AGENDA ITEM 65,No. 10-152ENJ, Laurie Boyce re Aurora Public Works Superintendent Robert Southard, Jr.

AGENDA ITEM 66, No. 10-166ENJ, Brandon Danz re Candidates and Legislative Members John Kitzhaber, Peter Courtney, Richard Devilin, Peter Buckley and Betsy Johnson.

AGENDA ITEM 67, No. 10-167ENJ, Julie Parrish re West Linn-Wilsonville School District Board Member Lorie Beight.

AGENDA ITEM 68, No.10-168ENJ, Bob Pieper re State Fire Marshall's Office member Charlie Chase.

MISCELLANEOUS ITEMS

(Tape 2b, 15.6)

AGENDA ITEM 69, No. 09-182EDT, Murray Paolo, Yamhill Co. Information Services Director. Wilhelms moved to approve the staff request for a 30-day extension to complete the investigation. Roll call vote was taken as follows: Campbell, aye; Lewis, aye; Waller, aye; Wilhelms, aye; Beggs, aye; Whitlock, aye. Motion passed unanimously.

(Tape 2b, 16.7)

AGENDA ITEM 70, Adoption of Administrative Rules, Divisions 1 and 10. Beggs moved to adopt Administrative Rules, Division 1 and 10. Roll call vote was taken as follows: Campbell, aye; Lewis, aye; Waller, aye; Wilhelms, aye; Beggs, aye; Whitlock, aye. Motion passed unanimously.

(Tape 2b, 18.3)

AGENDA ITEM 71, Annual Customer Service Survey. Bersin summarized the customer service survey and the Commission generally discussed the results.

(Tape 2b, 19.9)

AGENDA ITEM 72, Best Practices Performance Measure Survey Bersin summarized the best practices performance measure survey. The Commission discussed training.

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(Tape 2b, 24.6)

AGENDA ITEM 73, Trainer's Report. Bassler summarized the upcoming training schedules and the iLearn training site.

(Tape 2b, 26.0)

AGENDA ITEM 74, Director's Report. Bersin summarized the treasury investigation and audit, agency request budget preparation, and the request for funds to complete the electronic filing system.

(Tape 2b, 34.7)

Campbell complimented staff on their prompt attention to the Commission's suggestions and requests.

ADJOURNMENT

(Tape 2b, 34.9)

Beggs adjourned the meeting of the Oregon Government Ethics Commission at 12:13 p.m.

The next scheduled meeting date of the Oregon Government Ethics Commission is set for September 8, 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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