

OREGON GOVERNMENT ETHICS COMMISSION

MEETING MINUTES

April 23, 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, and Ian Whitlock. Gary Wilhelms arrived at 9:50a.m. and JoAnn Waller and Larry Campbell were 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, Administrative Specialist Amber Kerlee, and OGEC Counsel Lynn Rosik.

(Tape 1A, 0.2)

AGENDA ITEM 1, Approval of minutes of the March 5, 2010 meeting. The Commission approved the minutes without corrections.

(Tape 1A, 0.4)

Bersin addressed issues regarding sign in sheet and amending minutes to reflect parties addressing commission instead of whether they were in attendance. Lisa Smith and John Aarons addressed the commission regarding public record & written minutes. The Commission suggested that parties submit statements to Bersin for review and confirmation that statement is correct. Correction to be made to the January 15, 2010 minutes to reflect Smith and Aarons were present and the minutes correction is to be placed on the June 4, 2010 meeting agenda for approval.

(Tape 1A, 11.1)

Bersin introduced Amber Kerlee as new staff member to the commission.

CONSENT CALENDAR

(Tape 1A, 11.9)

Lewis moved for approval 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 staff recommendation on each of the following was to issue a letter of education:

The parties in the following items did not address the Commission.

AGENDA ITEM 2, Mental Health America of Oregon, 4th qtr 2009

AGENDA ITEM 3, American College of Emergency Physicians, 4th qtr 2009

AGENDA ITEM 4, Northwest Real Estate Investors Association, 4th qtr 2009

Lobbyist Penalty Correspondence

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

AGENDA ITEM 5, Richard P. Burke, 4th qtr 2009

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

End of Consent Calendar

STIPULATED FINAL ORDERS

(Tape 1A, 13.5)

AGENDA ITEM 6, No. 08-228EDT, Terry Kneisler, former Superintendent, Reynolds School District. Mr. Kneisler did not address the Commission. Hedrick summarized case history. The commission discussed the school district agreement. The Commission temporarily suspended action to acquire copies of the agreement.

MISCELLANEOUS ITEMS

(Tape 1A, 19.3)

AGENDA ITEM 19, Request for reconsideration of assessed penalties from Oregon Cattlemen's Association. W.L (Bill) Hoyt addressed the Commission suggesting that the penalty assessed was excessive compared to the lobbyist's penalty. The Commission discussed the request for reconsideration and took no action to amend the original sanction. The penalties will stand.

(Tape 1A, 33.6)

AGENDA ITEM 20, Policy review for Oregon School Boards Association. Rebecca Cook addressed the Commission discussing items in the policy. Bersin reviewed the process. Lewis moved to approve the policy. Roll call vote was taken as follows: Lewis, aye; Van Meter, aye; Whitlock, aye; Beggs, aye. Motion passed unanimously.

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STIPULATED FINAL ORDERS

(Tape 1A, 45.0)

AGENDA ITEM 6, No. 08-228EDT, Kneisler continued. Bersin continued summary regarding settlement.

Wilhelms arrived at 9:50 a.m.

The Commission discussed proposed penalties. Van Meter 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: Lewis, nay; Van Meter, aye; Whitlock, aye; Wilhelms, aye; Beggs, aye. Motion passed 4:1.

(Tape 1B, 5.3)

AGENDA ITEM 7, No. 08-234EDC, Laura Seeley, Jewell School Dist Teacher. Ms. Seeley did not address the Commission. Crabtree summarized case issues. The commission discussed the accumulation of air miles from use of private credit cards for public purchases. 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: Wilhelms, aye; Lewis, aye; Van Meter, aye; Whitlock, aye; Beggs, aye. Motion passed unanimously.

(Tape, 1B, 14.0)

AGENDA ITEM 8, No. 09-112EDC, Paul Koch, Pilot Rock City Manager. Mr. Koch did not address the commission. Crabtree summarized case. The commission discussed proposed penalties. Van meter 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: Whitlock, aye; Wilhelms, aye; Lewis, nay; Van Meter, aye; Beggs, aye. Motion passed 4:1.

(Tape, 1B, 18.2)

AGENDA ITEM 9, No 09-117EDT, Ray Akers, West Extension Irrigation District Operations Manager. Mr. Akers did not address commission. Tuss summarized case. The commission discussed proposed penalties. Van meter 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: Whitlock, aye; Wilhelms, aye; Lewis, aye; Van Meter, aye; Beggs, nay. Motion passed 4:1.

(Tape, 1B, 27.4)

AGENDA ITEM 10, No. 09-201EDT, Jon Barnhart, Colton Rural Fire District Board. Mr. Barnhart did not address commission. Tuss summarized case. Van Meter moved that

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

(Tape, 1B, 31.2)

AGENDA ITEM 11, No. 09-202XDT, Tom Fennell, Colton Rural Fire District Board. Mr. Fennell did not address commission. Tuss summarized case. 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: Lewis, aye; Van Meter, aye; Whitlock, aye; Wilhelms, aye; Beggs, aye. Motion passed unanimously.

(Tape 1B, 31.6)

The commission recessed at 10:28 a.m. and reconvened into regular session at 10:36 a.m.

DEFAULT FINAL ORDERS

(Tape 1B, 32.1)

AGENDA ITEM 12, No. 07-205EDT, Sandra Quesnoy, North Plains Municipal Court Clerk. Ms. Quesnoy did not address commission. Hedrick summarized case. Lewis addressed inconsistencies in proposed penalties. The Commission discussed negotiated settlements and default final orders. Lewis moved to approve default final order. Roll call vote was taken as follows: Lewis, aye; Van Meter, aye; Whitlock, aye; Wilhelms, aye; Beggs, aye. Motion passed unanimously

CONTESTED CASE PROPOSED FINAL ORDERS

None.

REPORTS OF INVESTIGATIONS

AGENDA ITEM 13, No. 08-228EDT, Terry Kneisler, Former Superintendent, Reynolds School District. Item was removed from agenda because a stipulated final order was accepted earlier in the meeting.

(Tape 1B, 42.3)

AGENDA ITEM 14, No. 09-170EDC, Timothy M. Evinger, Klamath County Sheriff. Mr. Evinger did not address the Commission. Crabtree summarized the case. The Commission discussed items in the case, gift issues, and entertainment issues. Wilhelms moved that the information before the Commission is insufficient to infer a violation of ORS 244.025 (4)(a) or warrant further investigation and that this complaint

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be dismissed. Roll call vote was taken as follows: Wilhelms, aye; Lewis, aye; Van Meter, nay; Whitlock, aye; Beggs, aye. Motion passed 4:1.

(Tape 2A, 11.1)

AGENDA ITEM 15, No. 09-171EDC, Katherine Brownback, former Hood River County Building Codes Inspector. Ms. Brownback did not address the Commission. Crabtree summarized the case. The Commission discussed the facts of the case. Van Meter moved that the Commission find that there is sufficient evidence to find 2 violations of ORS Chapter 244.025(1) by Katherine Brownback, 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: Whitlock, aye; Wilhelms, aye; Lewis, aye; Van Meter, aye; Beggs, aye. Motion passed unanimously.

ADVISORY OPINIONS

None.

CORRESPONDENCE RECEIVED/RESPONSES

Staff Opinions

None.

Staff Advice

(Tape 2A, 18.0)

AGENDA ITEM 16, Roger Beyer re public officials and candidates participating in a fact finding mission during which food, beverage and travel will be provided. Bersin addressed definition of fact finding mission. The commission discussed fact finding missions in general.

Other Correspondence

(Tape 2A, 25.9)

The Commission reviewed the following items without comment:

AGENDA ITEM 17, No. 10-110ENJ, Nanci Staples re Oakland City Council

AGENDA ITEM 18, No. 10-111ENJ, Craig Rumble re Wheeler County Deputy

(Tape 2A, 28.9)

The Commission convened into executive session at 11:05 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).

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EXECUTIVE SESSION CONSENT CALENDAR

(Tape 2A, 29.5)

Item 25 was removed from the consent calendar for comments.

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

AGENDA ITEM 23, No. 09-101EDC - Revised, Tony Alan, Lakey Superintendent of Public Works, City of Canyonville. Mr. Alan did not address the commission. The recommendation was that the Commission find that there is a substantial, objective basis for believing that Tony Alan may have violated ORS 244.040(1)(a) and 244.120(1)(c) and that the Commission should investigate accordingly.

AGENDA ITEM 24, No. 09-186EDT, Odie Harlon Green, City Councilor, City of Lakeside. Mr. Green did not address the commission. The recommendation was that the Commission find that there is a substantial, objective basis for believing that Odie Harlon may have violated ORS 244.040(1) and 244.120(2) and that the Commission should investigate accordingly.

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

End of Executive Session Consent Calendar

Reports of Preliminary Review

(Tape 2A, 31.6)

AGENDA ITEM 25, No. 10-102EDC, Linda Wagner, former Senior Lane Co Dept of Youth Services Management Analyst. Ms. Wagner did not address the Commission. Whitlock questioned acceptable use policies. Crabtree Indicated that he had a copy of the county's policy and it would be considered in any investigation. The Commission discussed known case facts. Lewis commented on the focus being on potential violations and disgruntled employees factor should not be mitigating. Van Meter moved that the Commission find that there is a substantial, objective basis for believing that Ms. Wagner may have violated ORS 244.040(1)(a), 244.040(1), and 244.040(4) and that the commission should investigate accordingly. Roll call vote was taken as follows: Van Meter, aye; Whitlock, aye; Wilhelms, nay; Lewis, aye; Beggs, aye. Motion passed 4:1.

OTHER PRELIMINARY REVIEWS

None.

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OTHER ITEMS

Own Motion Reviews

(Tape 2B, 3.5)

AGENDA ITEM 26, Possible own motion preliminary review re Tim Kerns, Baker Valley Soil and Water Conservation District. Kerns did not address the Commission. Bersin summarized case. Lewis moved that the Commission conduct a preliminary review to determine if there is cause to investigate whether Tim Kerns has violated ORS Chapter 244. Roll call vote was taken as follows: Lewis, aye; Van Meter, aye; Whitlock, aye; Wilhelms, aye; Beggs, aye. Motion passed unanimously.

(Tape 2B, 5.7)

AGENDA ITEM 27, Possible own motion preliminary review re Laurie Owens, Baker Valley Soil and Water Conservation District. Ms. Owens did not address the Commission. Lewis moved that the Commission conduct a preliminary review to determine if there is cause to investigate whether Laurie Owens has violated ORS Chapter 244. Roll call vote was taken as follows: Lewis, aye; Van Meter, aye; Whitlock, aye; Wilhelms, aye; Beggs, aye. Motion passed unanimously

Other Items

(Tape 2B, 6.8)

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

AGENDA ITEM 28 No. 10-110EAI, Nanci Staples re City of Oakland officials.

AGENDA ITEM 29 No. 10-113EAI, Lynn Fox re West Linn Councilor, Jody Carson. Lewis questioned why no investigation. Bersin advised he requested additional information and has not yet received it.

AGENDA ITEM 30 No. 10-115XAI, Michael Lindeman re Ochoco West Water and Sewer Board.

AGENDA ITEM 31 No. 10-116EAI, Sharon Sulkosky re Reynolds School District.

AGENDA ITEM 32 No. 10-118EAI, Jim Baker re Bly Water & Sanitary District.

AGENDA ITEM 33 No. 10-119EAI, John Pinard re City of Idanha Street Commissioner.

(Tape 2B, 8.5)

AGENDA ITEM 35, Review of Pending Litigation. Rosik reviewed status of pending litigation.

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AGENDA ITEM 34, Summary of Pending Cases. The Commission reviewed the list of pending cases without comment.

(Tape 2B, 10.8)

The Commission convened into regular session at 11:46 a.m.

MISCELLANEOUS ITEMS

(Tape 2B, 11.0)

AGENDA ITEM 21, Trainer's Report. Hedrick summarized training efforts. Bassler summarized training modules' development and marketing.

AGENDA ITEM 22, Director's Report. Bersin reviewed recruiting process and re-introduced new staff member – Amber Kerlee.

Bersin also discussed projected budgeting issues for the next biennium.

The Commission discussed conducting meetings at other locations around the state to become more visible. The commission will discuss further in November 2010, when the new schedule is set.

The Commission discussed the Treasury media issues and possible action. Bersin summarized the matter and suggested that the Commission wait until the Secretary of State's audit is complete so that the committee will have complete facts. (Tape 3A) Lewis motioned that certain named individuals in the newspaper article be brought to next meeting as a possible own motion agenda item. Roll call vote was taken as follows: Wilhelms, nay; Lewis, aye; Van Meter, nay; Whitlock, nay; Beggs, aye. Motion failed 3:2.

Wilhelms requested a status report regarding the Treasury item be placed on the next meeting agenda.

ADJOURNMENT

(Tape 3A, 8.4)

Beggs adjourned the meeting of the Oregon Government Ethics Commission at 12:37 p.m.

The next scheduled meeting date of the Oregon Government Ethics Commission is set for June 4, 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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