

OREGON GOVERNMENT ETHICS COMMISSION

MEETING MINUTES

January 21, 2011

9:00 a.m.

(Tape 1A, 0.1)

Chair Kenneth Lewis called the meeting to order at 9:01 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 Charles Beggs, JoAnn Waller, Larry Campbell, Norma Paulus and Ian Whitlock. Staff present were Executive Director Ron Bersin, Investigator Tammy Hedrick, Investigator Deborah Tuss, Program Analyst Virginia Lutz, Trainer Bethany Reeves, and OGEC Counsel Lynn Rosik.

(Tape 1A, 0.2)

Chair Lewis welcomed new Commissioner Norma Paulus.

(Tape 1A, 0.3)

Chair Lewis noted the resignation of Commissioner Gary Wilhelms.

(Tape 1A, 1.3)

AGENDA ITEM 1, Approval of minutes of the December 10, 2010 meeting. Campbell called for approval of the minutes of the December 10, 2010 Commission meeting. The minutes were approved without correction.

CONSENT CALENDAR

(Tape 1A, 2.0)

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

Reports of Investigation

None.

Lobbyist Penalty Correspondence

Staff recommendation on each of the following is to issue a letter of education:

AGENDA ITEM 2, Michael Howe, 3rd quarter, 2010

AGENDA ITEM 3, Jenna Keehnen, 1st, 2nd, 3rd, & 4th quarters, 2009

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AGENDA ITEM 4, Elizabeth Mazzara, 2nd & 3rd quarters, 2009

Staff recommendation on the following is as noted:

AGENDA ITEM 5, Elizabeth Mazzara, 3rd quarter, 2010. Staff recommendation is to reduce the penalty to \$100.

Lobbying Client/Employer Penalty Correspondence

Staff recommendation on each of the following is to issue a letter of education:

AGENDA ITEM 6, Oregon Ambulatory Surgery Center Assn, 4th quarter, 2009

AGENDA ITEM 7, Can Manufacturers Institute, 2nd quarter, 2010

AGENDA ITEM 8, Democratic Party of Oregon, 2nd quarter, 2009

AGENDA ITEM 9, United States Organization for Bankruptcy Alternatives, 1st, 2nd, 3rd & 4th quarters, 2009

Statement of Economic Interest Penalty Correspondence

Staff recommendation on each of the following is to issue a letter of education:

AGENDA ITEM 10, Ron Carnes, Sumpter Planning Commission, 2010

AGENDA ITEM 11, Jeff DeSantis, Silverton Planning Commission, 2009

AGENDA ITEM 12, Darrin Fleener, Falls City Mayor, 2010

AGENDA ITEM 13, Steve Griffith, State Senator Candidate, 2010

AGENDA ITEM 14, Michael Morris, Ashland Planning Commission, 2009

Staff recommendation on each of the following is as noted:

AGENDA ITEM 15, Jeff DeSantis, Silverton Planning Commission, 2010, reduce to \$74

AGENDA ITEM 16, Michael Morris, Ashland Planning Commission, 2010, reduce to \$50

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

End of Consent Calendar

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STIPULATED FINAL ORDERS

(Tape 1A, 2.4)

AGENDA ITEM 17, No. 09-101ETH, Tony Lakey, Superintendent of Public Works, City of Canyonville. Hedrick summarized the case. Lakey did not address the Commission. Beggs 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; Paulus, aye; Beggs, aye; Whitlock, aye; Waller, aye; Lewis, aye. Motion passed unanimously.

(Tape 1A, 3.9)

The Commission convened into executive session at 9:06 a.m. to consider preliminary reviews pursuant to ORS 244.260(4)(d), to consult with legal counsel regarding pending litigation pursuant to ORS 192.660(2)(h).

EXECUTIVE SESSION CONSENT CALENDAR

(Tape 1A, 4.0)

Items 28, 29 & 30 were removed from the consent calendar for comment or appearance by parties wishing to address the Commission. There were no remaining items on the consent calendar.

End of Executive Session Consent Calendar

(Tape 1A, 3.9)

The Commission generally discussed the process for addressing each of the Treasury cases.

OTHER PRELIMINARY REVIEWS

(Tape 1A, 5.0)

AGENDA ITEMS 31-38, Office of the State Treasurer. Respondents were present and represented by counsels Lisa Kaner, Dave Markowitz and Jim Brown. Also present by permission of Respondents was Treasurer Ted Wheeler, Deputy Treasurer Darren Bond and Treasury counsel Peter Shepherd. Wheeler and Shepherd made statements on behalf of respondents. Treasurer Wheeler made a statement regarding Treasury policies. Counsel Shepherd addressed the Commission regarding investment officer activities and Treasury policies. Counsels Markowitz and Kaner addressed the Commission with general comments relevant to all respondents they represented.

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(Tape 1B, 23.0)

AGENDA ITEM 34, No. 10-190EDT, Andy Hayes, State Treasurer Private Equity Investment Officer. Mr. Hayes participated telephonically and was represented by counsels Lisa Kaner, Dave Markowitz and Jim Brown. Tuss summarized the case. Kaner addressed the Commission regarding gift issues and per diem matters. The Commission discussed general case facts and policy issues. (Tape 2A, 19.9) Beggs moved that the Commission find that there is a substantial, objective basis for believing that Andy Hayes, may have violated ORS 244.040(1) and ORS 244.025(4)(a) and that the Commission should investigate accordingly. Roll call vote was taken as follows: Campbell, aye; Paulus, aye; Beggs, aye; Whitlock, aye; Waller, aye; Lewis, aye. Motion passed unanimously.

(Tape 2A, 21.6)

The Commission recessed at 11:00 a.m. and reconvened into executive session at 11:12 a.m.

(Tape 2A, 21.8)

AGENDA ITEM 31, No. 10-187EDT, Brad Child, State Treasurer Senior Real Estate Investment Officer. Mr. Child was present and was represented by counsels Lisa Kaner, Dave Markowitz and Jim Brown. Treasury counsel Peter Shepherd was present with the approval of the Respondent. Tuss summarized the case. Kaner addressed the Commission regarding gift issues, entertainment and per diem matters. The Commission discussed questions regarding the case facts. (Tape 2A, 47.2) Campbell moved that the Commission find that there is a substantial, objective basis for believing that Brad Child may have violated ORS 244.040(1) and ORS 244.025(4)(a) and that the Commission should investigate accordingly. Roll call vote was taken as follows: Campbell, aye; Paulus, aye; Beggs, aye; Whitlock, aye; Waller, aye; Lewis, aye. Motion passed unanimously.

(Tape 2B, 0.1)

AGENDA ITEM 32, No. 10-188EDT, John B. Fewel, State Treasurer Senior Real Estate Investment Officer. Mr. Fewel was present and was represented by counsels Lisa Kaner, Dave Markowitz and Jim Brown. Treasury counsel Peter Shepherd was present with the approval of the respondent. Tuss summarized 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; Paulus, aye; Beggs, aye; Whitlock, aye; Waller, aye; Lewis, aye. Motion passed unanimously.

AGENDA ITEM 33, No. 10-189EDT, Sam Green, State Treasurer Private Equity Investment Officer. Mr. Green was present and was represented by counsels Lisa Kaner, Dave Markowitz and Jim Brown. Treasury counsel Peter Shepherd and Deputy

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Treasurer Darrin Bond were present with the approval of the respondent. Tuss summarized the case. Mr. Green addressed the Commission regarding per diem issues. (Tape 2B, 13.1) The Commission discussed general questions regarding the case facts. Deputy Treasurer Darrin Bond addressed the Commission regarding travel policies and per diem matters. 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; Paulus, aye; Beggs, aye; Whitlock, aye; Waller, aye; Lewis, aye. Motion passed unanimously.

(Tape 2B, 32.3)

The Commission recessed at 12:10 p.m. and reconvened into executive session at 12:17 p.m.

(Tape 2B, 32.3)

The Commission discussed legal issues regarding executive session cases.

(Tape 3A, 16.3)

The Commission convened into regular session at 12:50 p.m.

STIPULATED FINAL ORDERS

AGENDA ITEM 18, No. 09-182EDT, Murray Paolo, Yamhill County Information Services Director. Mr. Paolo was present and represented by counsel John DiLorenzo. Tuss summarized the case. DiLorenzo addressed the Commission regarding the stipulated final order. Campbell asked questions regarding the case facts. 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, nay; Paulus, aye; Beggs, aye; Whitlock, aye; Waller, aye; Lewis, aye. Motion passed 5-1.

(Tape 3A, 21.2)

The Commission convened into executive session at 9:06 a.m. to consider preliminary reviews pursuant to ORS 244.260(4)(d), to consult with legal counsel regarding pending litigation pursuant to ORS 192.660(2)(h).

OTHER PRELIMINARY REVIEWS

(Tape 3A, 22.8)

AGENDA ITEM 35, No. 10-191EDT, John Hershey, State Treasurer Investment Officer. Mr. Hershey was present and was represented by counsels Lisa Kaner, Dave Markowitz and Jim Brown. Treasury counsel Peter Shepherd and Deputy Treasurer Darrin Bond were present with the approval of the Respondent. Tuss summarized the

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case. Counsel Kaner addressed the Commission. The Commission discussed per diem issues. Waller 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; Paulus, aye; Beggs, aye; Whitlock, aye; Waller, aye; Lewis, aye. Motion passed unanimously.

(Tape 3A, 27.8)

AGENDA ITEM 36, No. 10-192EDT, Ben Mahon, State Treasurer Public Equity Investment Officer. Mr. Mahon was present and was represented by counsels Lisa Kaner, Dave Markowitz and Jim Brown. Treasury counsel Peter Shepherd and Deputy Treasurer Darrin Bond were present with the approval of the respondent. Tuss summarized the case. The Commission discussed questions regarding the case facts. 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; Paulus, aye; Beggs, nay; Whitlock, aye; Waller, aye; Lewis, nay. Motion passed 4-2.

(Tape 3A, 42.0)

AGENDA ITEM 37, No. 10-193EDT, Ron Schmitz, State Treasurer Chief Investment Officer/Director of Investment Division. Mr. Schmitz was present and was represented by counsels Lisa Kaner, Dave Markowitz and Jim Brown. Treasury counsel Peter Shepherd and Deputy Treasurer Darrin Bond were present with the approval of the respondent. Tuss summarized the case. The Commission discussed per diem issues and counsel Kaner addressed the Commission regarding per diem and SEI reporting. (Tape 3B, 0.1) Deputy Treasurer Darrin Bond addressed the Commission. The Commission discussed SEI filing provisions. Waller moved that the Commission find that there is a substantial, objective basis for believing that Ron Schmitz may have violated ORS 244.040(1) and ORS 244.060(6) and that the commission should investigate accordingly. Roll call vote was taken as follows: Campbell, aye; Paulus, aye; Beggs, aye; Whitlock, aye; Waller, aye; Lewis, aye. Motion passed unanimously.

(Tape 3B, 16.0)

AGENDA ITEM 38, No. 10-194EDT, Mike Viteri, State Treasurer Public Equity Investment Officer. Mr. Viteri was present and was represented by counsels Lisa Kaner, Dave Markowitz and Jim Brown. Treasury counsel Peter Shepherd and Deputy Treasurer Darrin Bond were present with the approval of the respondent. Tuss summarized the case. Counsel Kaner addressed the Commission regarding per diem issues. 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; Paulus, aye; Beggs, aye; Whitlock, aye; Waller, aye; Lewis, nay. Motion passed 5-1.

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REPORTS OF PRELIMINARY REVIEW

(Tape 3B, 20.2)

AGENDA ITEM 28, No. 10-185LTH, Oregon State Grange, Lobbying Client/Employer. Oregon State Grange representative Phyllis Wilson participated by telephone. Hedrick summarized the case. Wilson addressed the Commission regarding the Grange's lobbying activity. Whitlock moved that the Commission find that there is a substantial, objective basis for believing that the Oregon State Grange may have violated ORS 171.750 and that the Commission should investigate accordingly. Roll call vote was taken as follows: Campbell, aye; Paulus, aye; Beggs, aye; Whitlock, aye; Waller, aye; Lewis, aye. Motion passed unanimously.

(Tape 3B, 36.3)

AGENDA ITEM 29, No. 10-204XTH, Rod Schilling, City of Lakeside Mayor. Mr. Schilling did not address the Commission. The Commission reviewed correspondence from the respondent offered as a handout and discussed media in executive sessions. (Tape 4A, 0.1) Hedrick summarized the case. Campbell moved that the Commission find that there is a substantial, objective basis for believing that Rod Schilling may have violated ORS 192.660 and that the Commission should investigate accordingly. Roll call vote was taken as follows: Campbell, aye; Paulus, aye; Beggs, aye; Whitlock, aye; Waller, aye; Lewis, aye. Motion passed unanimously.

(Tape 4A, 3.2)

AGENDA ITEM 30, No. 10-205XTH, Frederick Carleton, City of Lakeside Attorney. Mr. Carleton did not address the Commission. Campbell moved that the complaint and information before the Commission do not indicate a violation of ORS Chapter 192.660 or warrant further review and that this complaint be dismissed. Roll call vote was taken as follows: Campbell, aye; Paulus, aye; Beggs, aye; Whitlock, aye; Waller, aye; Lewis, aye. Motion passed unanimously.

OTHER ITEMS

Own Motion Reviews

(Tape 4A, 3.5)

AGENDA ITEM 39, Possible own motion preliminary review re lobbyist Vern Saboe. Dr. Saboe did not address the Commission. Lutz summarized the case. Beggs moved that the Commission conduct a preliminary review to determine if there is cause to investigate whether Vern Saboe has violated ORS Chapter 171.725. Roll call vote was taken as follows: Campbell, aye; Paulus, aye; Beggs, aye; Whitlock, aye; Waller, aye; Lewis, aye. Motion passed unanimously.

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(Tape 4A, 6.5)

AGENDA ITEM 40, Possible own motion preliminary review re lobbyist George Okulitch. Mr. Okulitch was present and addressed the Commission regarding his lobbying activity. Lutz summarized the case. The Commission took no action.

Other Items

(Tape 4A, 12.8)

AGENDA ITEM 41

No. 10-199LTH, Gary Conkling

No. 10-200LTH, David Fiskum

No. 10-201LTH, Daniel Jarman

No. 10-202LTH, Ralph Saperstein

No. 10-203LTH, Elizabeth Slater

Respondents did not address the Commission. Bersin & Lutz summarized the receipt of additional materials from the respondents. Campbell moved that the commission should expand its pending investigation to include the additional information. Roll call vote was taken as follows: Campbell, aye; Paulus, aye; Beggs, aye; Whitlock, aye; Waller, aye; Lewis, aye. Motion passed unanimously.

(Tape 4A, 14.8)

The Commission reviewed the following items without comment.

AGENDA ITEM 42, No. 10-209EAI, Shannon Gammie re Douglas Co Housing Authority Board Commissioner Jaime Sanchez.

AGENDA ITEM 43, Summary of Pending Litigation

AGENDA ITEM 44, Review of Pending Litigation

DEFAULT FINAL ORDERS

None.

CONTESTED CASE PROPOSED FINAL ORDERS

None.

REPORTS OF INVESTIGATIONS

None.

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(Tape 4A, 15.1)

The Commission convened into regular session at 12:50 p.m.

ADVISORY OPINIONS

None.

CORRESPONDENCE RECEIVED/RESPONSES

The Commission reviewed the following items without comment.

Staff Opinions

AGENDA ITEM 20, No. 10S-003, John DuFrene, PERS Chief Financial Officer, re public officials accepting discounts made available by Microsoft through their Home Use Program.

Staff Advice

AGENDA ITEM 21, Harry Wilson, Assistant Attorney General, re Attorney General acceptance of paid expenses to attend Aspen Institute-Rodel Fellowships in Public Leadership Program.

AGENDA ITEM 22, John McCulley, Oregon Fairs Association, re offering free meals to Legislators who attend the Oregon fairs Association Convention.

AGENDA ITEM 23, John Rakowitz, Associated General Contractors, re lobbying expense reporting for reception and dinner offered to legislative and public officials.

Other Correspondence

AGENDA ITEM 24, No. 10-208ENJ, Kyle Osborne re City of Burns public officials.

AGENDA ITEM 25, No. 10-210ENJ, Callie Reynolds re Corvallis Clinic.

MISCELLANEOUS ITEMS

(Tape 4A, 16.5)

AGENDA ITEM 26, Trainer's Report. Hedrick summarized training efforts.

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(Tape 4A, 19.5)

AGENDA ITEM 27, Director's Report. Bersin discussed the need to hold a special telephonic meeting to address a pending advisory opinion. The meeting was scheduled for February 4th, 2011 at 3:00 p.m. Bersin also advised the Commission of Tuss' promotion to Investigator and referred to the status of the agency's budgeting process.

(Tape 4A, 23.5)

Lewis adjourned the meeting at 2:30 p.m.

The next scheduled meeting date of the Oregon Government Ethics Commission is set for Friday, March 4, 2011 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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