

OREGON GOVERNMENT ETHICS COMMISSION

MEETING MINUTES

October 7, 2011

9:00 a.m.

(Tape 1a, .1)

Chair Kenneth Lewis 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 Charles Beggs, Joann Waller, Larry Campbell, Ian Whitlock and Mary Kremer. Staff present were Executive Director Ron Bersin, Investigator Deborah Tuss, Investigator Marlena Standley, Trainer Tammy Hedrick, Trainer Bethany Reeves, Program Analyst Virginia Lutz, and OGEC Counsel Lynn Rosik.

(Tape 1a, .2)

AGENDA ITEM 1, Approval of minutes of the August 29, 2011 meeting. Campbell called for approval of the August 29, 2011 meeting minutes as presented. The minutes were approved without correction.

CONSENT CALENDAR

(Tape 1a, .4)

Item 10 was removed from the consent calendar for comment.

(Tape 1a, .7)

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.

Lobbyist Penalty Correspondence

AGENDA ITEM 2, Glen Montgomery, 1st quarter 2011 – letter of education
2nd quarter 2011 – reduce penalty to \$100

AGENDA ITEM 3, Jeff Stone, 1st quarter 2011 – letter of education

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Lobbyist Client Penalty Correspondence

AGENDA ITEM 4, Oregon Synod – ELCA, 2nd quarter 2011 – letter of education

AGENDA ITEM 5, Willamette Pedestrian Coalition, 1st quarter 2011 – letter of education

AGENDA ITEM 6, eHealth Insurance, Inc., 2nd quarter 2011 – letter of education

AGENDA ITEM 7, Oregon Athletic Trainers Society, 2nd quarter 2011 – letter of education

AGENDA ITEM 8, Seattle NW Securities Corp., 2nd quarter 2011 – letter of education

AGENDA ITEM 9, Solar Energy Industries Assn, 1st qtr 2011 – letter of education
2nd qtr 2011 – reduce penalty to \$64

AGENDA ITEM 11, United Food & Commercial Workers Local 555,
2nd quarter 2011- letter of education

Statement of Economic Interest Correspondence

AGENDA ITEM 12, Kevin Conlin, Veneta Planning Comm. – letter of education

AGENDA ITEM 13, Leon Adams, Sublimity Planning Comm. – letter of education

AGENDA ITEM 14, Jim Erickson, Adair Village Planning Comm. – letter of education

AGENDA ITEM 15, Sue True, Oakridge Planning Comm. – letter of education

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

Lobbyist Client Penalty Correspondence

(Tape 1a, 1.1)

AGENDA ITEM 10, Confederated Tribes of Coos, Lower Umpqua & Siuslaw Indians. 1st and 2nd quarter 2011. The staff recommendation was to issue a letter of education for the 1st quarter 2011 violation and reduce the 2nd quarter penalty to \$150. Pete Shepherd, counsel for the Confederated Tribes, was present, but did not address the Commission. The Commission discussed the need for lobbyists to remind their clients of the reporting requirements. Campbell moved to accept the staff recommendations. Roll call vote was taken as follows: Campbell, aye; Beggs, aye; Whitlock, aye; Waller, aye; Lewis, aye; Kremer, aye. Motion passed unanimously.

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End of Consent Calendar

STIPULATED FINAL ORDERS

(Tape 1a, 2.0)

AGENDA ITEM 16, No. 10-211EDT, Chris Zimmerman, Oregon Parks and Recreation Park Ranger. Zimmerman did not address the Commission. 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; Beggs, aye; Whitlock, aye; Waller, aye; Lewis, aye; Kremer, aye. Motion passed unanimously.

(Tape 1a, 2.6)

AGENDA ITEM 17, No. 11-147XDT, Bob Main, Coos County Board of Commissioners. Main did not address the Commission. 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; Beggs, aye; Whitlock, aye; Waller, aye; Lewis, aye; Kremer, aye. Motion passed unanimously.

(Tape 1a, 3.5)

AGENDA ITEM 17-A, No. 11-151XDT, Cam Parry, Coos County Board of Commissioners. Parry did not address the Commission. Tuss summarized the case and stipulated final order. 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; Beggs, aye; Whitlock, aye; Waller, aye; Lewis, aye; Kremer, aye. Motion passed unanimously.

(Tape 1a, 4.3)

AGENDA ITEM 17-B, No. 10-195EMS, Dave May, Rockaway Beach City Councilor. May did not address the Commission. Waller 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; Beggs, aye; Whitlock, aye; Waller, aye; Lewis, aye; Kremer, aye. Motion passed unanimously.

DEFAULT FINAL ORDERS

None.

CONTESTED CASE PROPOSED FINAL ORDERS

None.

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REPORTS OF INVESTIGATION

None.

ADVISORY OPINIONS

(Tape 1a, 4.7)

AGENDA ITEM 18, No. 11A-1002, Ted Wheeler, Oregon State Treasury, re taking a position in Wheeler Foundation. The Commission discussed approving the advisory opinion. Kremer moved to adopt the advisory opinion as presented. Roll call vote was taken as follows: Campbell, aye; Beggs, aye; Whitlock, aye; Waller, aye; Lewis, aye; Kremer, aye. Motion passed unanimously.

CORRESPONDENCE RECEIVED/RESPONSES

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

Staff Opinions

None.

Staff Advice

(Tape 1a, 5.9)

AGENDA ITEM 19, State Representative Greg Smith re engaging in a private income producing opportunity. Bersin summarized the staff advice. The Commission discussed the advice.

(Tape 1a, 10.3)

AGENDA ITEM 20, Jack Butler re Christmas Valley Rural Fire Protection District members holding more than one public position. Bersin summarized the staff advice. The Commission discussed the advice. Lewis noted an error in a statutory citation and requested that the advice be revised and reissued.

Other Correspondence

(Tape 1a, 13.4)

AGENDA ITEM 21, No. 11-172XNJ, Terlyn Macduff re Lakeside Mayor Ed Gowen. Bersin summarized the correspondence. The Commission discussed the correspondence.

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(Tape 1a, 19.0)

AGENDA ITEM 22, No. 11-174ENJ, J.W. Ring re F. Keene, Oregon Health Authority. Bersin summarized the correspondence. The Commission discussed the correspondence.

AGENDA ITEM 23, No. 11-175XNJ, Randall Sanne re Coos County officials Fred Messerle, Alan Pettit and Jon Barton.

(Tape 1a, 23.5)

The Commission convened into executive session at 9:30 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).

EXECUTIVE SESSION CONSENT CALENDAR

(Tape 1a, 25.4)

Item 31 was removed from the consent calendar for comment or appearance by parties wishing to address the Commission.

(Tape 1a, 26.0)

AGENDA ITEM 31, No. 11-128EDT, Patricia Holloway, Clackamas River Water District. Ms. Holloway was present. Tuss summarized the case. Holloway addressed the Commission regarding the case. The Commission discussed the case. Whitlock moved that the Commission find that the complaint and information before the Commission do not indicate a violation of ORS 244 or warrant further review and that this complaint be dismissed. Roll call vote was taken as follows: Campbell, aye; Beggs, aye; Whitlock, aye; Waller, aye; Lewis, aye; Kremer, aye. Motion passed unanimously.

Reports of Preliminary Review

(Tape 1b, 2.1)

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

AGENDA ITEM 32, No. 11-130EDT, Perry Sherbaugh, Manzanita Department of Public Safety. Mr. Sherbaugh did not address the Commission. The recommendation was 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.

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AGENDA ITEM 33, No. 11-139EMS, Brian Earls, La Pine Water District Commissioner. Mr. Earls did not address the Commission. The recommendation was 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.

AGENDA ITEM 34, No. 11-156EDT, Tom Rozinski, Oregon Board of Chiropractic Examiners. Mr. Rozinski did not address the Commission. The recommendation was 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.

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

End of Executive Session Consent Calendar

OTHER ITEMS

Own Motion Reviews

(Tape 2b, 3.7)

AGENDA ITEM 35, Valerie McBride-Cater, retired Department of Administrative Services leasing officer. Ms. McBride-Cater was present with counsel Steven Seymour. Bersin summarized the own motion case. McBride-Cater addressed the Commission regarding facts of the case. Counsel Seymour addressed the Commission regarding McBride-Cater's employment status and contract details. Waller moved that the Commission conduct a preliminary review to determine if there is cause to investigate whether Valerie McBride-Cater has violated ORS chapter 244. Roll call vote was taken as follows: Campbell, aye; Beggs, aye; Whitlock, aye; Waller, aye; Lewis, aye; Kremer, aye. Motion passed unanimously.

(Tape 2a, 0.1)

The Commission recessed at 10:35 a.m. and reconvened into Executive Session at 10:45 a.m.

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(Tape 2a, 1.0)

AGENDA ITEM 36, James W. Grieve, Department of Fish and Wildlife employee. Mr. Grieve did not address the Commission. Bersin summarized the own motion case. Whitlock moved that the Commission conduct a preliminary review to determine if there is cause to investigate whether James Grieve has violated ORS chapter 244. Roll call vote was taken as follows: Campbell, aye; Beggs, aye; Whitlock, aye; Waller, aye; Lewis, aye; Kremer, aye. Motion passed unanimously.

Other Items

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

(Tape 2a, 1.4)

AGENDA ITEM 37, No. 11-176EAI, Brad Van Pelt re Chemult Rural Fire District officials, Pat Schaffner, Teresa Schaffner, Kristi Schaffner and Troy Schaffner. Bersin summarized the request for additional information.

(Tape 2a, 2.7)

AGENDA ITEM 38, No. 11-177XAI, Elaine Armstrong re Ed Gowan, City of Lakeside. Bersin summarized the request for additional information.

AGENDA ITEM 39, Summary of Pending Cases.

(Tape 2a, 2.8)

AGENDA ITEM 40. Review of Pending Litigation. Rosik provided a summary of pending or potential litigation.

(Tape 2a, 33.7)

The Commission reconvened into regular session at 11:22 a.m.

MISCELLANEOUS ITEMS

(Tape 2a, 35.1)

AGENDA ITEM 24, Motion for reconsideration of imposed sanctions
No. 10-187EDT, Brad Child, Oregon State Treasury
No. 10-190EDT, Andy Hayes, Oregon State Treasury
No. 10-193EDT, Ron Schmitz, Oregon State Treasury

Co-counsel Lisa Kaner and James Brown addressed the Commission regarding the motion for reconsideration. The Commission considered the matter and elected to take no action.

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(Tape 2a, 45.0)

AGENDA ITEM 25, Robert Ashline, Prescott Council. Motion for reconsideration of imposed penalty. The Commission reviewed the request for reconsideration and elected to take no action.

(Tape 2b, 0.4)

The Commission recessed from 11:37 a.m. – 11:58 a.m. to receive lunch

(Tape 2b, 1.0)

AGENDA ITEM 28, Review of Treasury Policies. Deputy State Treasurer Darren Bond and counsel Pete Shepard were present. Bersin provided a summary of the policy content. The Commission discussed the policies. Counsel Pete Shepherd addressed the Commission regarding policy content in addition to use of office or position and gift provisions. (Tape 3a) The Commission discussed travel, per diem, and language in the proposed policies. (Tape 3b) The Commission commented on specific segments of the policy that were of concern to them. Counsel and staff are to work on further amendments to the policies. The Commission took no action.

(Tape 3b, 10.0)

AGENDA ITEM 26, Commission Best Practices Self-Assessment. The Commission reviewed the results of the Best Practices survey and discussed possible methods of improvement.

(Tape 3b 10.4)

AGENDA ITEM 27, Executive Director's Performance Evaluation Discussion. The Commission discussed the upcoming performance review and Lutz advised them of the process to be used for the review, which will occur at the November 18, 2011 commission meeting.

(Tape 3b, 16.5)

AGENDA ITEM 29, Trainer's Report. Reeves presented training statistics to the Commission. The Commission requested that schedules for training be sent to them regularly by email.

(Tape 3b, 17.2)

AGENDA ITEM 30, Director's Report. Bersin informed the Commission that staff is working on adding hyperlinks to statute in the Public Official Guide. Bersin also explained that he is conducting performance reviews of all Commission staff and that he will be out of office October 26 through November 4, 2011. Bersin reminded the Commission that the election of Chair and Vice Chair for 2012 will occur at the Commission meeting on November 18, 2011. There was also a brief discussion regarding the Commission's authority for policy review.

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(Tape 3b, 31.5)

Lewis adjourned the meeting at 2:05 p.m.

The next scheduled meeting date of the Oregon Government Ethics Commission is set for Tuesday, November 15, 2011 at 9:00 a.m. The meeting will be held in the 1st Floor Conference Room of the Morrow Crane Building at 3218 Pringle Rd SE, Suite 220, in Salem, Oregon.

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