

# OREGON GOVERNMENT ETHICS COMMISSION

## MEETING MINUTES

October 30, 2012

9:00 a.m.

(0:01)

Chair Larry Campbell called the meeting to order at 9:00 a.m. The meeting was held in the 2<sup>nd</sup> Floor Conference Room of the Morrow Crane Building at 3218 Pringle Rd SE, Salem, Oregon. Other commissioners present were Ian Whitlock, Charles Beggs, Kenneth Lewis, Kenny Montoya, Mary Kremer, and Jan Hooper. Staff present were Executive Director Ron Bersin, Investigator Deborah Tuss, Investigator Marlena Standley, Program Analyst Virginia Lutz, Administrative Specialist Amber Beach, and OGEC Counsel Lynn Rosik.

(01:20)

Jan Hooper was introduced as a new Commissioner.

(03:28)

AGENDA ITEM 1, Approval of the minutes of the September 7, 2012 Commission meeting. Kremer called for approval of the September 7, 2012 meeting minutes. Minutes were approved without correction.

### CONSENT CALENDAR

(04:05)

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

#### Reports of Investigation

None.

#### Lobbyist Penalty Correspondence

None.

#### Lobbyist Client Penalty Correspondence

AGENDA ITEM 2, Whole Foods Market, 2<sup>nd</sup> qtr 2012 – Letter of Education

AGENDA ITEM 3, American Red Cross, 2<sup>nd</sup> qtr 2012 – Letter of Education

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AGENDA ITEM 4, Woodburn School District 103, 2<sup>nd</sup> qtr 2012 – Letter of Education

Statement of Economic Interest Correspondence

AGENDA ITEM 5. Corey Wallace, Powers City Council

AGENDA ITEM 6. Mark Campbell, Waldport City Council

AGENDA ITEM 7. Darreld Murphy, Douglas County Planning Commission

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

End of Consent Calendar

**(04:44)**

**The Commission convened into executive session at 9:04 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**

Items 17, 19, 20, 21, 22, and 23 were removed from the consent calendar for comment or appearance by parties wishing to address the Commission.

**(05:29)**

AGENDA ITEM 17, No. 12-166EDT, Fred Messerle, Chairman, Beaver Slough Drainage District and Coos County Commissioner. The Commission rescheduled the matter to the December 7, 2012 meeting.

Reports of Preliminary Review

**(08:21)**

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

AGENDA ITEM 18, No. 12-170EDT, Thomas W. Morgan Jr. Former custodian, University of Oregon. Staff recommendation was to move to investigate possible violations of ORS 244.040(1).

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

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## End of Executive Session Consent Calendar

(09:23)

AGENDA ITEMS 19-23, Board of Directors, Mosier Middle School

No. 12-172XDT, Brian McCormick

No. 12-173XDT, Monica Reid

No. 12-174XDT, Greg Shepherd

No. 12-175XDT, Steven Shwiff

No. 12-176XDT, Steve Salmon

Deborah Dyson, attorney for Mosier Middle School Board of Directors, addressed the Commission regarding charter school structure. Directors Brian McCormick, Monica Reid, Greg Shepherd, and Steve Salmon, were present along with Carole Schmidt, Executive Director of Mosier Middle School, to address the Commission regarding the executive session agenda and facts of the cases. Steven Shwiff did not address the Commission. Tuss summarized the cases. Montoya moved that the Commission find that there is a substantial objective basis for believing that Brian McCormick, Monica Reid, Greg Shepherd, Steven Shwiff, and Steve Salmon may have violated ORS 192.660(1) and (2) and that the Commission should investigate accordingly. Roll call vote was taken as follows: Campbell, nay; Beggs, aye; Kremer, nay; Whitlock, nay; Montoya, aye; Lewis, aye, Hooper, nay. Motion failed 4:3.

## OTHER ITEMS

### Reports of Preliminary Review

None

### Preliminary Review Stipulated Final Orders

The Commission reviewed the following without question or comment. Items to be acted on in regular session.

AGENDA ITEM 24, No. 12-143XMS, Marlene Bork, Sumpter City Councilor

AGENDA ITEM 25, No. 12-155XMS, Myrna Clarke, Sumpter City Councilor

AGENDA ITEM 26, No. 12-156XMS, G. LeAnne Woolf, Sumpter City Councilor

AGENDA ITEM 27, No. 12-157XMS, John Young, Sumpter Mayor

AGENDA ITEM 28, No. 12-164EMS, Marlene Bork, Sumpter City Councilor

AGENDA ITEM 29, No. 12-165EMS, Myrna Clarke, Sumpter City Councilor

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AGENDA ITEM 30, No. 12-189LDT, Elise Brown, Lobbyist. Ms. Brown was present but did not address the Commission.

AGENDA ITEM 31, No. 12-190LMS, Greg Leo, Lobbyist

#### Own Motion Reviews

(1:04:15)

Possible own motion preliminary review re lobbyists:

AGENDA ITEM 32, Greg Miller

AGENDA ITEM 33, Josh Balloch

AGENDA ITEM 34, Laura Modjeski

AGENDA ITEM 35, Paul Phillips

AGENDA ITEM 36, Ryan Tribbett

Greg Miller was present and addressed the Commission regarding facts of the own motions. Josh Balloch, Laura Modjeski, Paul Phillips, and Ryan Tribbett, did not address the Commission. Lewis moved that the Commission conduct a preliminary review to determine if there is cause to investigate whether Greg Miller, Josh Balloch, Laura Modjeski, Paul Phillips, and Ryan Tribbett, have violated ORS chapter 171. Roll call vote was taken as follows: Campbell, aye; Beggs, aye; Kremer, aye; Whitlock, aye; Montoya, aye; Lewis, aye, Hooper, aye. Motion passed unanimously.

#### Other Items

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

AGENDA ITEM 37, No. 12-186EAI, Timothy Tumlin re Morgan Sammons, member of Work Group on Prescriptive Authority for Licensed Psychologists.

(1:08:47)

AGENDA ITEM 38, No. 12-187XAI, Linda Siegert re Mike McCabe, Crook County Commissioner. Additional information was received and matter was opened.

(1:12:06)

AGENDA ITEM 40, No. 12-192EAI, Taylor Doss re Brian Leahy, Jim Rankin, and Brian Loomis, Tualatin Hills Park and Recreation District. The Commission discussed the case. The matter will be opened.

(1:12:06)

AGENDA ITEM 39, No. 12-191EAI, David Hammond re Jackson County Commissioners, John Rachor, Don Skundrick and CW Smith. The Commission discussed the case.

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(1:13:35)

AGENDA ITEM 41, Summary of Pending Cases. The Commission discussed the pending cases.

(1:18:29)

AGENDA ITEM 42, Review of Pending Litigation. Rosik addressed pending litigation matters.

**(1:28:02)**

**The Commission reconvened into regular session at 10:28 a.m.**

### **STIPULATED FINAL ORDERS**

(1:28:57)

AGENDA ITEM 8, No. 12-118EMS, Donna Zigler, La Pine Water District Operations Manager. Donna Zigler and counsel Ron Downs were present but did not address the Commission. The Commission discussed the Stipulated Final Order. 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; Kremer, aye; Whitlock, aye; Montoya, aye; Lewis, aye, Hooper, aye. Motion passed unanimously.

(1:32:56)

AGENDA ITEM 24, No. 12-143XMS, Marlene Bork, Sumpter City Councilor. 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; Kremer, aye; Whitlock, aye; Montoya, aye; Lewis, aye, Hooper, aye. Motion passed unanimously.

(1:33:56)

AGENDA ITEM 25, No. 12-155XMS, Myrna Clarke, Sumpter City Councilor. Kremer 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; Kremer, aye; Whitlock, aye; Montoya, aye; Lewis, aye, Hooper, aye. Motion passed unanimously.

(1:34:39)

AGENDA ITEM 26, No. 12-156XMS, G. LeAnne Woolf, Sumpter City Councilor. 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; Kremer, aye; Whitlock, aye; Montoya, aye; Lewis, aye, Hooper, aye. Motion passed unanimously.

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(1:35:00)

AGENDA ITEM 27, No. 12-157XMS, John Young, Sumpter Mayor. Montoya 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; Kremer, aye; Whitlock, aye; Montoya, aye; Lewis, aye, Hooper, aye. Motion passed unanimously.

(1:35:37)

AGENDA ITEM 28, No. 12-164EMS, Marlene Bork, Sumpter City Councilor. Hooper 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; Kremer, aye; Whitlock, aye; Montoya, aye; Lewis, aye, Hooper, aye. Motion passed unanimously.

(1:35:52)

AGENDA ITEM 29, No. 12-165EMS, Myrna Clarke, Sumpter City Councilor. Hooper 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; Kremer, aye; Whitlock, aye; Montoya, aye; Lewis, aye, Hooper, aye. Motion passed unanimously.

(1:36:12)

AGENDA ITEM 30, No. 12-189LDT, Elise Brown, Lobbyist. 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; Beggs, aye; Kremer, aye; Whitlock, aye; Montoya, aye; Lewis, aye, Hooper, aye. Motion passed unanimously.

(1:36:45)

AGENDA ITEM 31, No. 12-190LMS, Greg Leo, Lobbyist. 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; Kremer, aye; Whitlock, aye; Montoya, aye; Lewis, aye, Hooper, aye. Motion passed unanimously.

(1:38:50)

AGENDA ITEM 9, No. 12-136XMS, Naomi Parker, Lakeside City Councilor.

AGENDA ITEM 10, No. 12-137XMS, Ed Langley, Lakeside City Councilor.

AGENDA ITEM 11, No. 12-138XMS, Dean Warner, Lakeside City Councilor.

The Commission discussed items 9-11. Campbell suggested holding the Stipulated Final Order items until the conclusion of the investigation. Whitlock moved to defer action on items until the conclusion of the investigation. Roll call vote was taken as follows: Campbell, aye; Beggs, aye; Kremer, aye; Whitlock, aye; Montoya, aye; Lewis, aye, Hooper, aye. Motion passed unanimously.

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## DEFAULT FINAL ORDERS

None.

## CONTESTED CASE PROPOSED FINAL ORDERS

None.

## REPORTS OF INVESTIGATIONS

(1:45:03)

AGENDA ITEM 12-A. Request to expand investigation of City of Lakeside cases:

No. 12-135XMS, Ed Gowen

No. 12-136XMS, Naomi Parker

No. 12-137XMS, Ed Langley

No. 12-139XMS, Bert Guinn

The Commission briefly discussed the matters and removed the item from agenda with no action taken.

(1:59:50)

**The Commission recessed at 10:59 a.m. and reconvened into regular session at 11:07 a.m.**

## ADVISORY OPINIONS

(2:00:38)

AGENDA ITEM 13.No. 12A-1004, Elisa Dozono re possible conflicts of interest with law firm clients and attorney serving Lottery Commission. Beggs moved that the Commission adopt the advisory opinion as presented. Roll call vote was taken as follows: Campbell, aye; Beggs, aye; Kremer, aye; Whitlock, aye; Montoya, aye; Lewis, aye, Hooper, aye. Motion passed unanimously.

## CORRESPONDENCE RECEIVED/RESPONSES

### Staff Opinions

None.

### Staff Advice

None.

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## Other Correspondence

None.

### **MISCELLANEOUS ITEMS**

(2:02:27)

AGENDA ITEM 14, Discussion re process for Executive Director review. Lutz summarized the process for the Executive Director review.

(2:04:55)

AGENDA ITEM 15, Trainer's Report. The Commission reviewed the report provided by the trainers regarding training efforts.

(2:05:48)

AGENDA ITEM 16, Director's Report. Bersin provided an update on the legislative concepts and agency budget, directed the Commission to sign the private vehicle authorization form, and informed the Commission that recommendations of trainings are being included in stipulated final orders as part of the terms of settlement. The Commission discussed the upcoming chair and vice chair election. Kremer suggested that the Commission send letters to all Charter Schools to advise them that they are public officials subject to ethics statutes and to provide them educational opportunities.

(2:17:08)

**Campbell adjourned the meeting at 11:24 p.m.**

**The next scheduled meeting date of the Oregon Government Ethics Commission is set for Friday, December 7, 2012 at 9:00 a.m. The meeting will be held in the 2<sup>nd</sup> Floor Conference Room of the Morrow Crane Building at 3218 Pringle Rd SE, Suite 220, in Salem, Oregon.**

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