

OREGON GOVERNMENT ETHICS COMMISSION
MEETING MINUTES

April 4, 2014

9:00 a.m.

(1:37)

Chair Mary Kremer called the meeting to order at 9:03 a.m. The meeting was held in the 2nd Floor Conference Room of the Morrow Crane Building at 3218 Pringle Rd SE, Salem, Oregon. Other Commissioners present were Ian Whitlock, Charles Tauman, and Jan Hooper. Commissioners Marilyn Cover and Kenny Montoya were excused from attendance. Staff present were OGEC Counsel Lynn Rosik, Executive Director Ron Bersin, Investigator Deborah Tuss, Investigator Diane Gould, Program Manager Virginia Lutz, Trainer Tammy Hedrick, Trainer Russ Casler, and Office Specialist Kathy Daniel.

(2:22)

AGENDA ITEM 1, Approval of the minutes of the February 14, 2014 Commission meeting. Chair Kremer called for approval of the minutes which were approved without correction.

CONSENT CALENDAR

(2:30)

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

Reports of Investigation

None.

Lobbyist Penalty Correspondence

AGENDA ITEM 2, Trent Lutz, 4th qtr 2013, Letter of Education

AGENDA ITEM 3, Claudia Black, 4th qtr 2013, Letter of Education

AGENDA ITEM 4, Carl Hosticka, 3rd qtr 2013, Letter of Education

Lobbyist Client Penalty Correspondence

AGENDA ITEM 5, City of Eugene, 3rd qtr 2013, Letter of Education

AGENDA ITEM 6, Coalition of County Commissions on Children and Families, 4th qtr 2013, Letter of Education

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Statement of Economic Interest Correspondence

AGENDA ITEM 7, Michael Ennis, Scio Planning Comm, 2013, Letter of Education

AGENDA ITEM 8, Doug Henson, Tillamook City Council, 2013, Letter of Education

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

End of Consent Calendar

Lobbyist Penalty Correspondence

(3:10)

AGENDA ITEM 9, Joseph Santos-Lyons, 4th qtr 2013, reduce penalty to \$100. Commissioner Whitlock moved that the Commission reduce the penalty to \$100. Roll call vote was taken as follows: Hooper, aye; Tauman, aye; Whitlock, aye; Kremer, aye. Motion passed unanimously.

Lobbyist Client Penalty Correspondence

(3:55)

AGENDA ITEM 10, OPAL, 3rd qtr & 4th qtr 2013, Letter of Education. The Commission generally discussed the matter. Commissioner Tauman recommended a Letter of Education with a caution for future violations. Commissioner Whitlock moved to issue a Letter of Education. Roll call vote was taken as follows: Hooper, aye; Tauman, aye; Whitlock, aye; Kremer, aye. Motion passed unanimously.

(12:00)

AGENDA ITEM 11, Asian Pacific American Network of Oregon (APANO), 4TH qtr 2013, Reduce penalty to \$100. Commissioner Tauman moved to adopt staff recommendation to reduce penalty to \$100. Roll call vote was taken as follows: Hooper, aye; Tauman, aye; Whitlock, aye; Kremer, aye. Motion passed unanimously.

Statement of Economic Interest Correspondence

(12:45)

AGENDA ITEM 12, Larry Pfund, Port of Astoria Commissioner, 2010 & 2013, no recommendation. The Commission generally discussed the matter. Commissioner Whitlock recommended SEI training. Commissioner Tauman recommended a reduction in penalty upon completion of SEI training. Commissioner Whitlock moved to assess a

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10% penalty of the amount owing for the 2013 SEI which would reduce the penalty to \$94.00 and a Letter of Education for the 2010 SEI late filing. Roll call vote was taken as follows: Hooper, aye; Tauman, aye; Whitlock, aye; Kremer, aye. Motion passed unanimously.

STIPULATED FINAL ORDERS

(27:00)

AGENDA ITEM 13, No. 12-179EDT, Jim Kight, City of Troutdale Mayor. Mr. Kight did not address the Commission. Investigator Tuss summarized the case. The Commission generally discussed the matter. Commissioner 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: Hooper, aye; Tauman, aye; Whitlock, aye; Kremer, aye. Motion passed unanimously.

DEFAULT FINAL ORDERS

None.

CONTESTED CASE PROPOSED FINAL ORDERS

None.

REPORTS OF INVESTIGATIONS

(33.33)

AGENDA ITEMS 14 – 22 Directors of Willamette Education Service District Board

No. 13-152XDG, Anne Wylie

No. 13-153XDG, Ken Hector

No. 13-154XDG, Phil Frey

No. 13-155XDG, Larry Trott

No. 13-156XDG, Frank Pender, Jr.

No. 13-157XDG, Alex Sanchez

No. 13-158XDG, Dixon Bledsoe

No. 13-159XDG, Rick Kimball

No. 13-160XDG, Mark Trumbo

Investigator Gould summarized the 9 cases. Ms. Lisa Freiley, the Oregon School Boards Association attorney, was present on behalf of the respondents and addressed the Commission. Ms. Freiley discussed issues she believed to be relevant to her clients' cases. The Commission generally discussed the investigated violations. Commissioner Whitlock questioned Ms. Freiley about the current practices of the WESD board.

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Commissioner Tauman moved that the Commission find that there is sufficient evidence to find a violation of ORS Chapter 192.660(2) by Anne Wylie, Ken Hector, Phil Frey, Larry Trott, Frank Pender, Jr., Alex Sanchez, Dixon Bledsoe, Rick Kimball, and Mark Trumbo, if this evidence is not rebutted by contrary evidence, and that these public officials be offered a contested case proceeding. Roll call vote was taken as follows: Hooper, aye; Tauman, aye; Whitlock, aye; Kremer, aye. Motion passed unanimously.

ADVISORY OPINIONS

(1:01:38)

AGENDA ITEM 23, No. 14-A-1001, Megan Thornton, City of West Linn Assistant Attorney. Executive Director Bersin summarized the opinion. The Commission generally discussed the proposed amendments to West Linn Community Development Code. Trainer Casler reviewed the information gathering process. Commissioner Whitlock moved to adopt the advisory opinion as presented. Roll call vote was taken as follows: Hooper, aye; Tauman, aye; Whitlock, aye; Kremer, aye. Motion passed unanimously.

CORRESPONDENCE RECEIVED/RESPONSES

Staff Opinions

(1:13:00)

The Commission generally discussed the following staff opinions.

AGENDA ITEM 24, No. 14S-001, Chad M. Stokes, Attorney at Law. Conflict of Interest implications for members of the Board of Directors of a People's Utility District when considering providing payments to current Directors for certain personal legal expenses.

AGENDA ITEM 25, No. 14S-002, Conflict of Interest implications for members of the Board of Directors of a People's Utility District when considering providing a monthly stipend to current directors for the cost of obtaining personal health insurance.

Staff Advice

None.

Other Correspondence

(1:21:03)

The following agenda items were reviewed without comment.

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AGENDA ITEM 26, No. 14-113ENJ, Robert L Pearson re Gresham Mayor Shane Bemis

AGENDA ITEM 27, No. 14-114ENJ, Donny Thornton re Klamath County School District School Board Member Steve Lowell.

AGENDA ITEM 28, No. 14-116ENJ, Alicia Denney re Corbett Grade School District Principal Deanna Hanes.

AGENDA ITEM 29, No. 14-117ENJ, Alicia Denney re Corbett School District Superintendent Randy Trani.

AGENDA ITEM 30, No. 14-118ENJ, Alicia Denney re Corbett High School District Principal Phil Pearson.

AGENDA ITEM 31, No. 14-119ENJ, Alicia Denney re Corbett Special Education Administrator Desiree Chiu.

AGENDA ITEM 32, No. 14-120ENJ, Donna Patton re Klamath Community Corrections Officer Tracy Gaia.

(1:22:00)

The Commission recessed from 10:20 – 10:30 am.

(1:22:18)

The Commission convened into executive session at 10:32 a.m. to consider Preliminary Reviews pursuant to ORS 244.260(2)(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

(All items removed from consent calendar for discussion.)

End of Executive Session Consent Calendar

OTHER ITEMS

Reports of Preliminary Review

(removed from consent calendar)

(1:23:45)

AGENDA ITEM 38, No. 13-151EDT, Mitch Morrow, Department of Corrections Deputy Director. Investigator Deborah Tuss summarized the case. The Commission generally

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discussed the preliminary review. Counsel Rosik commented on nepotism in statute. Commissioner Whitlock moved that the Commission find that there is a substantial, objective basis for believing that Mitch Morrow may have violated ORS 244.040(1), 244.120(1)(c) and 244.177(1) and that the Commission should investigate accordingly. Roll call vote was taken as follows: Hooper, aye; Tauman, aye; Whitlock, aye; Kremer, aye. Motion passed unanimously.

AGENDA ITEMS 39 – 40

No. 13-213EDG, Dewey Kennedy, Gilliam County Roadmaster.

No. 13-214EDG, Rena Kennedy, Gilliam County Clerk.

Investigator Gould summarized the cases. Commissioner Hooper moved that the Commission find that the complaint and information before the Commission do not indicate a violation of ORS 244.040(1) or warrant further review and that the complaints be dismissed. Roll call vote was taken as follows: Hooper, aye; Tauman, aye; Whitlock, aye; Kremer, aye. Motion passed unanimously.

AGENDA ITEM 41, No. 13-215EDT, Liane Richardson aka Liane Inkster, former Lane County Chief Executive Officer/Principal Administrator. Investigator Tuss summarized the case. Copies of an email from Ms. Richardson were provided to each Commissioner for review. The Commission generally discussed the preliminary review. Commissioner Tauman moved that the Commission find that there is a substantial, objective basis for believing that Liane Richardson may have violated ORS 244.040(1), 244.060 and 244.120(1)(c) and that the Commission should investigate accordingly. Roll call vote was taken as follows: Hooper, aye; Tauman, aye; Whitlock, aye; Kremer, aye. Motion passed unanimously.

Preliminary Review Stipulated Final Orders
(discussion only, action in open session)

None.

Own Motion Reviews

None.

Other Items
(non-action informational only items)

The Commission reviewed the following items without comment unless otherwise noted:

(1:41:00)

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AGENDA ITEM 42, No. 14-112EAI, Cheryl Oviedo re Forest Grove School District Members, Brad Bafaro, Kimberly Shearer, Toby O’Handley, Yvonne Curtis, and Kathryn Taplin.

AGENDA ITEM 43, Summary of Pending Cases.

AGENDA ITEM 44, Review of Pending Litigation.

(1:41:56)

The Commission adjourned from executive session and reconvened into regular session at 10:50 a.m.

MISCELLANEOUS ITEMS

(1:43:00)

AGENDA ITEM 33, Direct Deposit for Commission Members. Executive Director Bersin reviewed the information provided to the Commission.

(1:44:30)

AGENDA ITEM 34, Gold Star Certificate. Executive Director Bersin summarized the matter.

(1:46:10)

AGENDA ITEM 35, Trainers’ Report, Trainer Tammy Hedrick reviewed the SEI training that has taken place and summarized other current training activity.

(1:47:18)

AGENDA ITEM 36, Director’s Report, Executive Director Bersin reviewed:

- Legislative Concepts planned for submission.
- Media Workshop agenda for today’s meeting.
- Initiation of a discussion with the Governor’s Office regarding the filing of SEIs from the Governor’s Office staff and the Oregon Education Investment Board.
- Two Additional Information cases were closed statutorily involving the Crook County Commissioners which prompted staff to change procedures when receiving complaints that do not supply enough information to make a determination. The Commission generally discussed the new procedure.
- The management survey which resulted in downward leveling of the OGEC Executive Director position due to perceived scope and complexity. Bersin has requested reconsideration.
- The IT Reporting System project. Bersin and Lutz will begin working on a Statement of Work for a project manager. Commissioner Hooper offered her experience through consultation.

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- A new OGEC Commissioner should be in place by the June 27, 2014 meeting.
- Chair Kremer introduced the possibility of another media workshop with Lobbyists, Commissioners and Stakeholders to get their input on who should be considered Media and allowed into Executive Session.

(2:34:13)

The Commission recessed from 11:30am – 12:01pm.

The Commission reconvened into regular session and began the media workshop.

(File B, 0:15)

AGENDA ITEM 37, Media Workshop. Chair Kremer called the Workshop to order at 12:01 p.m. Kremer addressed the media representatives and thanked them for attending. The following representatives were present and addressed the Commission.

Chuck Beggs, Former OGEC Commissioner. Mr. Beggs reviewed past history of attempts to define media by legislation. He stated that it became an ad hoc approach that was very confusing and small jurisdictions had particular problems. His opinion was that it is not fair to governments to not provide clear direction. There was discussion about whether representatives of news media should be associated with an organization or media institution, and whether there should be a penalty for not abiding by the law.

Rick Hangartner, OSU Media Director. Mr. Hangartner discussed old vs new media. He provided handouts # 8, 9, and 10, and the Commission generally discussed.

Hannah Hoffman, Statesman Journal and Society of Professional Journalists. Ms. Hoffman stated that in current law, there is an inherent flaw as media should be present in a watchdog capacity allowing for the greatest amount of transparency. Hoffman reviewed the characteristics of what she believes makes a person a reporter:

- A. Independent source of information for the public.
- B. Dissemination of information.
- C. Actual information gatherer.
- D. To address the actual public.

Patrick McCreary, KPTV and Oregon Association of Broadcasters. Mr. McCreary suggested there should be a reasonable measure for media requirements, a definition should not be too black and white, and that the status should be determined at the moment, making the broadest definition the best.

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(File B, 56:35)

Council Rosik briefly addressed the media representatives. Executive Director Bersin extended an invitation to the next Commission meeting during the media workshop with statements from Stakeholders.

Rick Hangartner added comments regarding syndication of comment and content.

Chair Kremer adjourned the meeting at 1:05 p.m.

The next scheduled meeting date of the Oregon Government Ethics Commission is set for Friday, May 16, 2014, 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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