

OREGON GOVERNMENT ETHICS COMMISSION

MEETING MINUTES

December 5, 2008

(Tape 1A, 0.1)

Chair Judy Stiegler called the meeting to order at 9:12 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 Delna Jones, Kenneth Lewis and Charles Beggs. Commissioners Thomas Bruner and Jeff Jones were excused from attendance. Staff present were Executive Director Ron Bersin, Investigator Don Crabtree, Investigator Deborah Tuss, Trainer Tammy Hedrick, Program Analyst Virginia Lutz and OGEC Counsel Lynn Rosik.

(Tape 1A, 1.2)

AGENDA ITEM 1, Approval of the Minutes of the October 13, 2008 meeting. Stiegler called for approval of the minutes of the October 13, 2008 commission meeting. The minutes were approved as presented.

CONSENT CALENDAR

(Tape 1A, 1.7)

D. Jones complimented the staff on their work on the Stipulated Final Orders and moved for approval of the consent calendar and the staff recommendation on each as follows:

Reports of Investigation

None.

Stipulated Final Orders

AGENDA ITEM 2, No. 08-125EDC, Vivian Finnegan, Oregon City Resources Manager. Ms. Finnegan was not present. The complainant, Paul Edgar, was present and Chair Stiegler advised him that the Commission would not entertain comments from him without Ms. Finnegan present.

AGENDA ITEM 3, No. 08-151LDT, Mark W. Nelson, Lobbyist. Mr. Nelson was not present.

AGENDA ITEM 4, No. 08-177LDC, Ted Hughes, Lobbyist. Mr. Hughes was not present.

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AGENDA ITEM 5, No. 08-178LDT, Paul S. Cosgrove, Lobbyist. Mr. Cosgrove was not present.

AGENDA ITEM 6, No. 08-203LDT, Erica C. Hagedorn, Lobbyist. Ms. Hagedorn was not present.

AGENDA ITEM 7, No. 08-204LDT, Karen Mainzer, Lobbyist. Ms. Mainzer was not present.

AGENDA ITEM 8, No. 08-205LDC, Jack Isselmann, Lobbyist. Mr. Isselmann was not present.

AGENDA ITEM 9, No. 08-206LDC, Mark L. Cushing, Lobbyist. Mr. Cushing was not present.

AGENDA ITEM 10, No. 08-207LDC, Inga C. Deckert, Lobbyist. Ms. Deckert was not present.

Letters of Education

AGENDA ITEM 11, John A. DiLorenzo, Lobbyist. Mr. DiLorenzo was not present.

Consent calendar roll call vote was taken as follows: Stiegler, aye; D. Jones, aye; Beggs, aye; Lewis, aye. Motion passed unanimously.

End of Consent Calendar

DEFAULT FINAL ORDERS

None.

CONTESTED CASE PROPOSED FINAL ORDERS

None.

REPORTS OF INVESTIGATIONS

(Tape 1A, 8.9)

AGENDA ITEM 14, No. 08-126EDT, Jill Cunningham, Yoncalla School District Board of Directors. Ms. Cunningham was present with counsel Karen Vickers. Tuss summarized the case history. Both Ms. Cunningham and Counsel Vickers addressed the

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Commission. Ms. Cunningham stated that she had acted on the advice of others and that they have since had training to help them avoid future problems. Beggs moved that the Commission find that there is sufficient evidence to find a violation of ORS Chapter 244.120(2)(b)(A) by Jill Cunningham, 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: Stiegler, aye; D. Jones, aye; Beggs, aye; Lewis, aye. Motion passed unanimously.

(Tape 1A, 22.7)

AGENDA ITEM 15, No. 08-127EDT, Cathey Grimes, Yoncalla School District Board of Directors. Ms. Grimes was present with counsel Karen Vickers. Tuss summarized the case history. Counsel Vickers and Ms. Grimes addressed the Commission and acknowledged the mistake that was made and that they have had additional training since it occurred. Beggs moved that the Commission find that there is sufficient evidence to find a violation of ORS Chapter 244.120(2)(b)(A) by Cathey Grimes, 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: Stiegler, aye; D. Jones, aye; Beggs, aye; Lewis, aye. Motion passed unanimously.

(Tape 1A, 30.1)

AGENDA ITEM 12, No. 08-117EDT, Dan Martin, former employee, Wallowa Union Railroad Authority. Mr. Martin was not present. Tuss summarized the case history. D. Jones moved that the Commission find that there is sufficient evidence to find a violation of ORS Chapter 244.040(1)(a) by Dan Martin, 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: Stiegler, aye; D. Jones, aye; Beggs, aye; Lewis, aye. Motion passed unanimously.

(Tape 1A, 37.0)

AGENDA ITEM 13, No. 08-118EDT, Dawn Smith, Wallowa County Geographic Information System Coordinator. Ms. Smith was not present. Tuss summarized the case history. Lewis moved that the Commission find that there is sufficient evidence to find a violation of ORS Chapter 244.120(2)(b)(A) by Dawn Smith, 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: Stiegler, aye; D. Jones, aye; Beggs, aye; Lewis, aye. Motion passed unanimously.

ADVISORY OPINIONS

(Tape 1A, 44.9)

AGENDA ITEM 16, No. 08A-1006, Pamela Knowles, Portland Business Alliance re Charitable Institute's or its affiliate's legislative or administrative interest in government agencies that fund, deliver or administer services. Item 16 was removed from the agenda by the participants and the time waived.

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(Tape 1B, 0.2)

AGENDA ITEM 17, No. 08A-1007, John Kroger, Attorney General elect, re teaching courses at law schools while serving as Attorney General. Lewis moved that the Commission adopt the opinion as presented. Roll call vote was taken as follows: Stiegler, aye; D. Jones, aye; Beggs, aye; Lewis, aye. Motion passed unanimously.

CORRESPONDENCE RECEIVED/RESPONSES

Lobbyist Client/Employer Penalty Correspondence

(Tape 1B, 1.7)

The Commission discussed the changes in lobbying regulations and the option of penalties or letters of education, and reviewed the following correspondence:

AGENDA ITEM 18, Oregon Juvenile Department Directors Association.

(Tape 1B, 9.8)

AGENDA ITEMS 19 & 28, Portland Business Alliance & Bernie Bottomly. Mr. Bottomly was present and addressed the Commission regarding his failure to file timely individually and for Portland Business Alliance. Mr. Bottomly also informed the Commission that they have taken action to correct the errors.

AGENDA ITEM 20, American Diabetes Association.

AGENDA ITEM 21, Addus Healthcare.

(Tape 1B, 13.1)

AGENDA ITEM 22, Oregon Narcotics Enforcement Association. Sean Pritchard was present for the ONEA and addressed the Commission, explaining that the forms were lost internally in their mail system and that the process has been corrected.

(Tape 1B, 16.4)

AGENDA ITEM 23-24, Professional Land Surveyors of Oregon. Ed Henricks was present for PLSO, and addressed the Commission regarding their late filing and some mailing issues that had taken place.

(Tape 1B, 21.4)

AGENDA ITEM 25, Clear Creek Distillery. Steve McCarthy was present for Clear Creek Distillery and addressed the Commission regarding their filing and reporting practices.

AGENDA ITEM 26, Oregon Dairy Farmers Association.

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Lobbyist Client/Employer Penalty Correspondence

AGENDA ITEM 27, Greg Leo

(Tape 1B, 35.9)

AGENDA ITEM 29, Sandra Bishop. Ms. Bishop was present and addressed the Commission regarding address changes and mailing difficulties that had taken place.

(Tape 2A, 3.0)

D. Jones moved that Items 18-29 be issued letters of education in lieu of imposition of accrued penalties. Roll call vote was taken as follows: Stiegler, aye; D. Jones, aye; Beggs, aye; Lewis, aye. Motion passed unanimously.

(Tape 2A, 4.2)

The commission recessed at 10:50 a.m. and reconvened into regular session at 11:02 a.m.

Staff Opinions

(Tape 2A, 5.1)

AGENDA ITEM 5 No. 08S-006, John DiLorenzo re discounts offered to Nike employees or guests at the Nike Employee Store. The Commission reviewed the opinion without comment.

Staff Advice

(Tape 2A, 5.4)

The Commission reviewed the following correspondence and generally discussed issues regarding Staff Advice:

AGENDA ITEM 31, Stewart Bolinger re Lane County gift and conflict of interest questions.

AGENDA ITEM 32, Jef Green re Oregon Business Association fund raising dinner.

AGENDA ITEM 33, Brad Anderson re official's acceptance of professional services contract.

AGENDA ITEM 34, Anne Rigor re Oregon Farm Bureau adopt a legislator program. Lewis asked general questions regarding the content of the request.

AGENDA ITEM 35, Bill Harbaugh re using personal email for conducting official business.

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AGENDA ITEM 36, Michael DeLapa re various requests for advice on gifts and legislative or administrative interest issues.

Policy Reviews

(Tape 2A, 14.3)

AGENDA ITEM 37, Special Districts Association of Oregon policy review. Bersin summarized the history of the request and advised the Commission that the parties are rewriting the policies to be reviewed at a later date.

Other Correspondence

(Tape 2A, 15.6)

The Commission reviewed the following correspondence without comment:

AGENDA ITEM 38, No. 08-218ENJ, Marty Stegman re Brad Long of the Ochoco West Water Board.

AGENDA ITEM 39, No. 08-219ENJ, Damon Freeman re DPSST employee Karen Evans.

AGENDA ITEM 40, No. 08-221ENJ, Jennifer Hunt re DUII diversion program.

AGENDA ITEM 41, No. 08-223ENJ, Chuck Sheketoff re campaign website for Senator Fred Girod.

AGENDA ITEM 42, No. 08-225ENJ, Mickey LeQuire re City of Salem, federal funding request.

(Tape 2A, 15.8)

The commission convened into executive session at 11:15 a.m. to consider preliminary reviews pursuant to ORS 244.060(6)(c), to consult with legal counsel regarding pending litigation pursuant to ORS 192.660(2)(h), and to review and evaluate the performance of the Executive Director pursuant to ORS 192.660(2)(i).

EXECUTIVE SESSION CONSENT CALENDAR

(Tape 2A, 17.9)

Items 48, 50-54 were removed from the consent calendar because Stipulated Final Orders were approved earlier in the meeting.

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(Tape 2A, 18.5)

AGENDA ITEM 49, No. 08-181EDC, Robert Warsaw. Stiegler declared a former working relationship with the Respondent.

(Tape 2A, 19.2)

D. Jones moved for approval of the remaining consent calendar items and the recommended action on each as follows:

Reports of Preliminary Review

AGENDA ITEM 49, No. 08-181EDC, Robert Warsaw. Mr. Warsaw was not present. The recommendation was that the Commission find that there is a substantial, objective basis for believing that Robert Warsaw may have violated ORS 244.040(1)(a) and that the Commission should investigate accordingly.

Executive Session Consent Calendar roll call vote was taken as follows: Stiegler, aye; D. Jones, aye; Beggs, aye; Lewis, aye. Motion passed unanimously.

End of Executive Session Consent Calendar

OTHER PRELIMINARY REVIEWS

None.

OTHER ITEMS

Own Motion Reviews

(Tape 2A, 19.8)

AGENDA ITEMS 55 & 56, John H. Seeley & Laura Seeley, Jewell School District. Bersin summarized the own motion issues for the Commission. A telephone call was made to Mr. Seeley with no answer. A message was left for Mr. and Ms. Seeley and the item was deferred until later in the meeting.

Other Items

(Tape 2A, 28.1)

AGENDA ITEM 57, No. 08-224EAI, Karti Mayaram and Teri Fiez, Oregon State University. Ms. Mayaram and Ms. Fiez were not present.

AGENDA ITEM 58, No. 08-227EAI, Bill Cummins, City of Silverton. Mr. Cummins was not present.

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AGENDA ITEM 59, Summary of Pending Cases. The Commission reviewed the list of pending cases without comment.

(Tape 2A, 28.5)

AGENDA ITEM 60, Review of Pending Litigation. Rosik summarized the pending litigation for the Commission.

Own Motion Reviews

(Tape 2A, 33.0)

AGENDA ITEM 55, John H. Seeley, Jewell School District. Mr. Seeley participated by telephone. Crabtree summarized the issues of the Own Motion. Mr. Seeley addressed the Commission. D. Jones moved that the Commission conduct a preliminary review to determine if there is cause to investigate whether John H. Seeley has violated ORS Chapter 244. Roll call vote was taken as follows: Stiegler, aye; D. Jones, aye; Beggs, aye; Lewis, aye. Motion passed unanimously.

(Tape 2B, .5)

AGENDA ITEM 56, Laura Seeley, Jewell School District. Ms. Seeley participated by telephone. Mr. Seeley listened by telephone with the approval of Ms. Seeley. Crabtree summarized the issues of the Own Motion. Ms. Seeley addressed the Commission. D. Jones moved that the Commission conduct a preliminary review to determine if there is cause to investigate whether Laura Seeley has violated ORS Chapter 244. Roll call vote was taken as follows: Stiegler, aye; D. Jones, aye; Beggs, aye; Lewis, aye. Motion passed unanimously.

Other Items

(Tape 2B, 16.7)

AGENDA ITEM 61, Executive Director Annual Performance Review.

(Tape 2B, 39.2)

The OGEC reconvened into regular session at 12:20 p.m.

(Tape 2B, 39.2)

D. Jones moved that Bersin be granted one step increase. Roll call vote was taken as follows: Stiegler, aye; D. Jones, aye; Beggs, aye; Lewis, aye. Motion passed unanimously.

MISCELLANEOUS ITEMS

(Tape 2B, 40.6)

AGENDA ITEM 43, Customer Service Survey Results

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(Tape 3A, 0.1)

AGENDA ITEM 44, Electronic Filing Project Status Report. Lutz summarized the status of the project for the Commission.

(Tape 3A, 5.6)

AGENDA ITEM 46, 2009 Meeting Date Schedule. The Commission discussed the meeting dates for 2009. The May 8, 2009 meeting date was changed to May 1, 2009.

(Tape 3A, 8.9)

AGENDA ITEM 45, Election of Commission Chair and Vice Chair for 2009. Stiegler will resign by the end of December, so the elections will be deferred until the January 2009 meeting. D. Jones will assume the position of Commission Chair until further notice.

(Tape 3A, 11.9)

AGENDA ITEM 47, Director's Report. Bersin discussed budget matters, and Bersin and Hedrick explained the iLearn program and training opportunities to the Commission.

(Tape 3A, 22.6)

Chair Stiegler adjourned the meeting of the Oregon Government Ethics Commission at 12:56 p.m.

The next scheduled meeting date of the Oregon Government Ethics Commission is set for January 30, 2009 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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