

OREGON GOVERNMENT ETHICS COMMISSION
MEETING MINUTES
January 25, 2019
9:00 a.m.

(File 1)

Chair Richard Burke 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 Salem, Oregon. Other Commissioners present were Charles Starr, Daniel Mason, Nathan Sosa, Sean O'Day, Alison Kean, Karly Edwards, Kamala Shugar, and David Fiskum joined by telephone. Staff present were OGEC Counsel Amy Alpaugh, Executive Director Ron Bersin, Program Manager Virginia Lutz, Compliance and Education Coordinator Diane Gould, Investigator Susan Myers, Investigator Hayley Weedn, Trainer Tammy Hedrick, Trainer Monica Walker, and Administrative Specialist Kathy Baier.

AGENDA ITEM 1, Comments from the Chair. Burke welcomes all.

AGENDA ITEM 2, Approval of minutes of the December 14, 2018 Commission meeting. Starr called for approval of the minutes of the December 14, 2018 Commission meeting. Minutes were approved without correction.

CONSENT CALENDAR

Shugar moved for the approval of the Consent Calendar items 3 – 5 and the recommendation on each as follows:

Lobbyist Penalty Correspondence

AGENDA ITEM 3, Lisa Arkin , 2018 Q3, Letter of Education

Lobbyist Client Penalty Correspondence

AGENDA ITEM 4, Forward Edge Initiative, 2016 Q1, Letter of Education

Statement of Economic Interest Penalty Correspondence

AGENDA ITEM 5, Robert Mushen, 2017 SEI, Letter of Education

Group vote was taken as follows: Fiskum, aye; Mason, aye; O'Day, aye; Sosa, aye; Shugar, aye; Starr, aye; Kean, aye; Edwards, aye; Burke, aye. Motion passed unanimously.

End of Consent Calendar

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STIPULATED FINAL ORDERS

AGENDA ITEM 6, 16-112XMT, Cary Clarke. Councilor, City of Sumpter. Myers summarized the case. Clarke did not address the Commission. The Commission generally discussed the matter. Shugar 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: Fiskum, aye; Mason, aye; O'Day, aye; Sosa, aye; Shugar, aye; Starr, aye; Kean, aye; Edwards, aye; Burke, aye. Motion passed unanimously.

AGENDA ITEM 7, 16-133EMS, Patrick Christopher Perry. Wheeler County Judge and chairperson of the Wheeler County Court. Myers summarized the case. Perry did not address the Commission. The Commission generally discussed the matter. Starr 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: Fiskum, aye; Mason, nay; O'Day, nay; Sosa, aye; Shugar, aye; Starr, aye; Kean, aye; Edwards, aye; Burke, nay. Motion passed 6 - 3.

AGENDA ITEM 8, 18-133XHW, Medessa Cheney

AGENDA ITEM 9, 18-134XDG, Steve Dyer

AGENDA ITEM 10, 18-135XDG, Lauren Rook

AGENDA ITEM 11, 18-137XDG, Dennis Terzian

AGENDA ITEM 12, 18-139XDG, Dorine Nafziger

Portland Village School Board of Directors. Gould summarized the cases. Respondents did not address the Commission. No discussion from the Commission.

Item 8, Sosa 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: Fiskum, aye; Mason, aye; O'Day, aye; Sosa, aye; Shugar, aye; Starr, aye; Kean, aye; Edwards, aye; Burke, aye. Motion passed unanimously.

Item 9, Sosa 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: Fiskum, aye; Mason, aye; O'Day, aye; Sosa, aye; Shugar, aye; Starr, aye; Kean, aye; Edwards, aye; Burke, aye. Motion passed unanimously.

Item 10, Sosa 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: Fiskum, aye; Mason, aye; O'Day, aye; Sosa, aye; Shugar, aye; Starr, aye; Kean, aye; Edwards, aye; Burke, aye. Motion passed unanimously.

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Item 11, Sosa 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: Fiskum, aye; Mason, aye; O'Day, aye; Sosa, aye; Shugar, aye; Starr, aye; Kean, aye; Edwards, aye; Burke, aye. Motion passed unanimously.

Item 12, Sosa 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: Fiskum, aye; Mason, aye; O'Day, aye; Sosa, aye; Shugar, aye; Starr, aye; Kean, aye; Edwards, aye; Burke, aye. Motion passed unanimously.

AGENDA ITEM 13, 18-239XDG, Russ Axelrod, Mayor

AGENDA ITEM 14, 18-240XDG, Brenda Perry, Councilor

AGENDA ITEM 15, 18-241XDG, Bob Martin, Councilor

City of West Linn. Weedn summarized the cases. Respondents did not address the Commission. The Commission generally discussed the cases. O'Day disclosed exparte communication with Axelrod.

Item 13, Sosa 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: Fiskum, aye; Mason, aye; O'Day, aye; Sosa, aye; Shugar, aye; Starr, aye; Kean, aye; Edwards, aye; Burke, aye. Motion passed unanimously.

Item 14, Kean 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: Fiskum, aye; Mason, aye; O'Day, aye; Sosa, aye; Shugar, aye; Starr, aye; Kean, aye; Edwards, aye; Burke, aye. Motion passed unanimously.

Item 15, Kean 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: Fiskum, aye; Mason, aye; O'Day, aye; Sosa, aye; Shugar, aye; Starr, aye; Kean, aye; Edwards, aye; Burke, aye. Motion passed unanimously.

DEFAULT FINAL ORDERS

None.

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REPORTS OF INVESTIGATIONS

AGENDA ITEM 16, 18-141XDG, Ann Marie Vitti

AGENDA ITEM 17, 18-142XDG, Ellen Harris

Portland Village School Board of Directors.

Gould summarized the cases. Respondents did not address the Commission. The Commission did not discuss the matter.

Item 16, Sosa moved that the Commission find that the information before the Commission is insufficient to infer a violation of ORS Chapter 244 or warrant further investigation and that this complaint be dismissed. Roll call vote was taken as follows: Fiskum, aye; Mason, aye; O'Day, aye; Sosa, aye; Shugar, aye; Starr, aye; Kean, aye; Edwards, aye; Burke, aye. Motion passed unanimously.

Item 17, Sosa moved that the Commission find that the information before the Commission is insufficient to infer a violation of ORS Chapter 244 or warrant further investigation and that this complaint be dismissed. Roll call vote was taken as follows: Fiskum, aye; Mason, aye; O'Day, aye; Sosa, aye; Shugar, aye; Starr, aye; Kean, aye; Edwards, aye; Burke, aye. Motion passed unanimously.

AGENDA ITEM 18, 18-146XMT, Dick Anderson, Councilor

AGENDA ITEM 19, 18-147XMT, Don Williams, Mayor, not present, not represented

AGENDA ITEM 20, 18-148XMT, Susan Wahlke, Councilor

AGENDA ITEM 21, 18-149XMT, Judy Casper, Councilor

AGENDA ITEM 22, 18-150XMT, Diana Hinton, Councilor

AGENDA ITEM 23, 18-151XMT, Riley Hoaglund, Councilor

City of Lincoln City. Gould summarized the cases. Counsel Andrea Coit addressed the Commission on behalf of all the present city councilors. The Commission and Alpaugh generally discussed the matters. Anderson addressed the Commission. O'Day disclosed a past potential conflict of interest.

Item 18, O'Day moved that the Commission find that the information before the Commission is insufficient to infer a violation of ORS Chapter 244 or warrant further investigation and that this complaint be dismissed. The Commission discussed the matter. Roll call vote was taken as follows: Fiskum, aye; Mason, aye; O'Day, aye; Sosa, nay; Shugar, aye; Starr, aye; Kean, aye; Edwards, nay; Burke, nay. Motion passed 6 – 3.

Item 19, O'Day moved that the Commission find that the information before the Commission is insufficient to infer a violation of ORS Chapter 244 or warrant further investigation and that this complaint be dismissed. Roll call vote was taken as follows: Fiskum, aye; Mason, aye; O'Day, aye; Sosa, nay; Shugar, aye; Starr, aye; Kean, aye; Edwards, absent; Burke, nay. Motion passed 6 – 2.

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Item 20, O'Day moved that the Commission find that the information before the Commission is insufficient to infer a violation of ORS Chapter 244 or warrant further investigation and that this complaint be dismissed. Roll call vote was taken as follows: Fiskum, aye; Mason, aye; O'Day, aye; Sosa, nay; Shugar, aye; Starr, aye; Kean, aye; Edwards, absent; Burke, nay. Motion passed 6 – 2.

Item 21, O'Day moved that the Commission find that the information before the Commission is insufficient to infer a violation of ORS Chapter 244 or warrant further investigation and that this complaint be dismissed. Roll call vote was taken as follows: Fiskum, aye; Mason, aye; O'Day, aye; Sosa, nay; Shugar, aye; Starr, aye; Kean, aye; Edwards, absent; Burke, nay. Motion passed 6 – 2.

Item 22, O'Day moved that the Commission find that the information before the Commission is insufficient to infer a violation of ORS Chapter 244 or warrant further investigation and that this complaint be dismissed. Roll call vote was taken as follows: Fiskum, aye; Mason, aye; O'Day, aye; Sosa, nay; Shugar, aye; Starr, aye; Kean, aye; Edwards, nay; Burke, nay. Motion passed 6 – 3.

Item 23, O'Day moved that the Commission find that the information before the Commission is insufficient to infer a violation of ORS Chapter 244 or warrant further investigation and that this complaint be dismissed. Roll call vote was taken as follows: Fiskum, aye; Mason, aye; O'Day, aye; Sosa, nay; Shugar, aye; Starr, aye; Kean, aye; Edwards, nay; Burke, nay. Motion passed 6 – 3.

The Commission recessed at 11:08 a.m. and resumed in regular session at 11:18 a.m.

(File 2)

AGENDA ITEM 24, 18-155EHW, John Lindsey. County Commissioner, Linn County. Weedn summarized the case. John Lindsey and Counsel Kenny Montoya addressed the Commission. The Commission and Alpaugh discussed the case. Shugar moved that the Commission find that there is sufficient evidence to find 1 violation of ORS Chapter 244.040(1) and 3 violations of ORS 244.120(2) by John Lindsey, if this evidence is not rebutted by contrary evidence, and that this public official be offered a contested case proceeding. The Commission continued discussion. Kean suggested voting on 244.040(1) separately, and the Commission continued discussion.

Shugar amended the motion to move that the Commission find that there is sufficient evidence to find 1 violation of ORS 244.040(1) by John Lindsey, 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: Fiskum, nay; Mason, nay; O'Day, nay; Sosa, nay; Shugar, aye; Starr, nay; Kean, nay; Edwards, aye; Burke, nay. Motion failed 7 to 2.

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Sosa moved that the Commission find that the information before the Commission is insufficient to infer a violation of ORS Chapter 244.120(2) on June 4, 2017 or warrant further investigation and that this element of the complaint be dismissed. Roll call vote was taken as follows: Fiskum, aye; Mason, aye; O'Day, nay; Sosa, aye; Shugar, nay; Starr, aye; Kean, aye; Edwards, nay; Burke, aye. Motion passed 6 – 3.

Sosa moved that the Commission find that there is sufficient evidence to find a violation of ORS Chapter 244.120(2) on June 5 and June 27, 2017 by John Lindsey, 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: Fiskum, aye; Mason, aye; O'Day, aye; Sosa, aye; Shugar, aye; Starr, aye; Kean, aye; Edwards, aye; Burke, aye. Motion passed unanimously.

The Commission recessed for a working lunch at 1:10 p.m., and convened into executive session at 1:20 p.m. to conduct Executive Director performance review pursuant to ORS 192.660(2)(i), and to consult with legal counsel regarding current litigation or litigation likely to be filed 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)

None.

Own Motion Preliminary Reviews

None.

Other Items

(File 3)

AGENDA ITEM 30, Executive Director Performance Review follow-up. No additional comments.

AGENDA ITEM 31, Review of Pending Litigation. Alpaugh summarized pending litigation.

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The Commission reconvened into open session at 1:30 p.m.

ADVISORY OPINIONS

None.

CORRESPONDENCE RECEIVED/RESPONSES

Staff Opinions

(non-action, informational only items)

None.

Staff Advice

(non-action, informational only items)

(File 4)

The Commission reviewed the following items without comment:

AGENDA ITEM 25, 18-245I, Stephen Dow Beckham re conflict of interest between service as a member of the State Advisory Committee on Historic Preservation and former employment as a consultant under contract for the Confederated Tribes of Coos, Lower Umpqua and Siuslaw.

AGENDA ITEM 26, 18-251I, Tammy Dennee, Oregon Dairy Farmers Association, re food and beverage provided at educational farm tour for legislative officials and staff.

OTHER CORRESPONDENCE

None.

MISCELLANEOUS ITEMS

AGENDA ITEM 27, Trainers' Report. Hedrick and Walker summarized past and future training activities and the upcoming SEI filing season training. Gould summarized a meeting with the Massachusetts Ethics Commission.

AGENDA ITEM 28, Executive Director's Report. Bersin discussed the following:

- 2017-2019 biennial budget: Bersin reviewed the status of the 2017-2019 budget and advised that the ending balance would be used to reduce 2019-2021 assessments.
- 2019-2021. Governor's budget complete. Budget hearings upcoming in February.
- 2019 Legislative Bills: HB 2096 & 2097 hearings to begin with House Rules.
- SEI filings and Q4 Expenditure Reports: reviewed status of non-filers.
- Met with DAS IT regarding service needs and will replace two office computers.

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- Met with Bill Cross, Capitol Club re legislative concepts.
- Cylvia Hayes re case status and possible settlement document at next meeting.

AGENDA ITEM 29, Review of the 2019-2021 Governor's Budget.

Chair Burke adjourned the meeting at 1:56 p.m.

The next scheduled meeting date of the Oregon Government Ethics Commission is set for Thursday, March 7, 2019, 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, in Salem, Oregon.

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