

OREGON GOVERNMENT ETHICS COMMISSION
MEETING MINUTES
August 23, 2019
9:00 a.m.

(File 1)

Chair Richard Burke 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 Salem, Oregon. Other Commissioners present were Charles Starr, Sean O'Day, Alison Kean, Dave Fiskum, and Nathan Sosa. Dan Mason and Karly Edwards were excused from attendance. Staff present were OGEC Counsel Amy Alpaugh, Executive Director Ron Bersin, Program Manager Virginia Lutz, Compliance and Education Coordinator Diane Gould, Investigator Susan Myers, and Trainer Tammy Hedrick.

AGENDA ITEM 1, Comments from the Chair.

AGENDA ITEM 2, Approval of minutes of the July 12, 2019 Commission meeting. Chair Burke called for the approval of the minutes of the July 12, 2019 commission meeting. The minutes were approved without correction.

CONSENT CALENDAR

Fiskum moved for the approval of the Consent Calendar, items 3-18, and the recommendation on each as follows:

Lobbyist Penalty Correspondence

AGENDA ITEM 3, Jana McKamey, 2019 Q1, Letter of Education

AGENDA ITEM 4, Robin Johnson, 2016 Q2, Letter of Education

AGENDA ITEM 5, Bob Sallinger, 2019 Q2, Letter of Education

AGENDA ITEM 6, Grover Simmons, 2019 Q2, Letter of Education

AGENDA ITEM 7, David Shor, 2019 Q2, Letter of Education

Lobbyist Client Penalty Correspondence

AGENDA ITEM 8, CJM II LLC, 2017 Q4, Letter of Education

AGENDA ITEM 9, OR Chapter American Fisheries Society, 2019 Q2, Letter of Education

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AGENDA ITEM 10, Coastal Conservation Assoc, 2019 Q2, Letter of Education

AGENDA ITEM 11, Independent Employer Assoc, 2019 Q2, Letter of Education

AGENDA ITEM 12, Mercy Flights, 2019 Q2, Letter of Education

AGENDA ITEM 13, Independent Insurance Agents & Brokers, 2019 Q2,
Letter of Education

AGENDA ITEM 14, Oregon Employment Dept, 2019 Q2, Letter of Education

AGENDA ITEM 15, Consumer Data Industry Assoc, 2019 Q2, Letter of Education

AGENDA ITEM 16, Bird Rides, Inc., 2019 Q2, Letter of Education

Statement of Economic Interest Penalty Correspondence

AGENDA ITEM 17, Steve Lowry, 2018 SEI, Letter of Education

AGENDA ITEM 18, Don Williams, 2018 SEI, Letter of Education

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

End of Consent Calendar

REPORTS OF INVESTIGATION

AGENDA ITEM 36, 19-002EHW, S. Bruce Connor, Cruise Industry Marketing Director for the Port of Astoria. Myers summarized the case. Connor addressed the Commission. Kean moved that the Commission find that there is sufficient evidence to find violations of ORS Chapters 244.040(1), 244.040(4), and 244.120(1)(c) by S. Bruce Connor, 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: Starr, aye; Sosa, aye; Fiskum, aye; Kean, aye; O'Day, aye; Burke, aye. Motion passed unanimously.

MISCELLANEOUS ITEMS

AGENDA ITEM 45, Audit Team Presentation. Team members discussed beginning of the OGEC audit. The Commission generally discussed the audit. Commissioners were invited to participate.

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(File 2)

The Commission convened into executive session at 9:20 a.m. to consider Preliminary Reviews pursuant to ORS 244.260(4)(d) and ORS 171.778(4)(d), possible own motion preliminary reviews pursuant to ORS 244.260(2)(d), and to consult with legal counsel regarding current 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 Reviews (removed from consent calendar)

AGENDA ITEM 52, 19-146EDG, Herman Baertschiger, Senator, Legislative Assembly. Gould summarized the case. Baertschiger was present with Counsel John Dilorenzo. They addressed the Commission. Kean moved 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. Roll call vote was taken as follows: Starr, aye; Sosa, aye; Fiskum, aye; Kean, aye; O'Day, aye; Burke, aye. Motion passed unanimously.

The Commission recessed at 10:18 a.m. and reconvened into Executive Session at 10:26 a.m.

AGENDA ITEM 53, 19-147EDG, Cliff Bentz, Senator, Legislative Assembly. Gould summarized the case. Bentz did not address the Commission. Fiskum moved 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. Roll call vote was taken as follows: Starr, aye; Sosa, aye; Fiskum, aye; Kean, aye; O'Day, aye; Burke, aye. Motion passed unanimously.

AGENDA ITEM 54, 19-148EDG, Brian Boquist, Senator, Legislative Assembly. Boquist did not address the Commission. Starr moved 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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Roll call vote was taken as follows: Starr, aye; Sosa, aye; Fiskum, aye; Kean, aye; O'Day, aye; Burke, abstained. Motion passed 5 – 0 with 1 abstention.

AGENDA ITEM 55, 19-149EDG, Fred Girod, Senator, Legislative Assembly. Girod did not address the Commission. Kean moved 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. Roll call vote was taken as follows: Starr, aye; Sosa, aye; Fiskum, aye; Kean, aye; O'Day, aye; Burke, aye. Motion passed unanimously.

AGENDA ITEM 56, 19-150EDG, Bill Hansell, Senator, Legislative Assembly. Hansell did not address the Commission. Fiskum moved 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. Roll call vote was taken as follows: Starr, aye; Sosa, aye; Fiskum, aye; Kean, aye; O'Day, aye; Burke, aye. Motion passed unanimously.

AGENDA ITEM 57, 19-151EDG, Dallas Heard, Senator, Legislative Assembly. Heard did not address the Commission. Fiskum moved 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. Roll call vote was taken as follows: Starr, aye; Sosa, aye; Fiskum, aye; Kean, aye; O'Day, aye; Burke, aye. Motion passed unanimously.

AGENDA ITEM 58, 19-152EDG, Tim Knopp, Senator, Legislative Assembly. Knopp did not address the Commission. Fiskum moved 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. Roll call vote was taken as follows: Starr, aye; Sosa, aye; Fiskum, aye; Kean, aye; O'Day, aye; Burke, abstained. Motion passed 5 – 0 with 1 abstention.

AGENDA ITEM 59, 19-153EDG, Dennis Linthicum, Senator, Legislative Assembly. Linthicum did not address the Commission. Fiskum moved 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. Roll call vote was taken as follows: Starr, aye; Sosa, aye; Fiskum, aye; Kean, aye; O'Day, aye; Burke, abstained. Motion passed 5 – 0 with 1 abstention.

AGENDA ITEM 60, 19-154EDG, Alan Olsen, Senator, Legislative Assembly. Olsen did not address the Commission. Fiskum moved 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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Roll call vote was taken as follows: Starr, aye; Sosa, aye; Fiskum, aye; Kean, aye; O'Day, aye; Burke, aye. Motion passed unanimously.

AGENDA ITEM 61, 19-155EDG, Kim Thatcher, Senator, Legislative Assembly. Thatcher did not address the Commission. Fiskum moved 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. Roll call vote was taken as follows: Starr, aye; Sosa, aye; Fiskum, aye; Kean, aye; O'Day, aye; Burke, abstained. Motion passed 5 – 0 with 1 abstention.

AGENDA ITEM 62, 19-156EDG, Chuck Thomsen, Senator, Legislative Assembly. Thomsen did not address the Commission. Fiskum moved 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. Roll call vote was taken as follows: Starr, aye; Sosa, aye; Fiskum, aye; Kean, aye; O'Day, aye; Burke, aye. Motion passed unanimously.

AGENDA ITEM 50, 19-106LDG, Paul Cieslak, Medical Director, Center for Practice, Oregon Health Authority. Gould summarized the case. Cieslak did not address the Commission. Sosa moved that the Commission find that the complaint and information before the Commission do not indicate a violation of ORS Chapter 171 or warrant further review and that this complaint be dismissed. Roll call vote was taken as follows: Starr, aye; Sosa, aye; Fiskum, aye; Kean, aye; O'Day, aye; Burke, aye. Motion passed unanimously.

AGENDA ITEM 51, 19-115LDG, Laurie Wimmer, Lobbyist for Oregon Education Association. Gould summarized the case. Wimmer did not address the Commission. Sosa moved that the Commission find that the complaint and information before the Commission do not indicate a violation of ORS Chapter 171 or warrant further review and that this complaint be dismissed. Roll call vote was taken as follows: Starr, aye; Sosa, aye; Fiskum, aye; Kean, aye; O'Day, aye; Burke, aye. Motion passed unanimously.

AGENDA ITEM 63, 19-162ESM, Jeffrey Cotton, former manager, Burns Municipal Airport. Myers summarized the case. Cotton addressed the Commission by telephone. The Commission generally discussed the case. Sosa moved that the Commission find that there is a substantial, objective basis for believing that Jeffrey Cotton may have violated ORS Chapter 244.040 and ORS 244.120 and that the Commission should investigate accordingly. Roll call vote was taken as follows: Starr, aye; Sosa, aye; Fiskum, aye; Kean, aye; O'Day, aye; Burke, aye. Motion passed unanimously.

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Own Motion Preliminary Reviews

(File 3)

AGENDA ITEM 64, Possible Own Motion Preliminary Review, exempt from Public Record. Sosa moved that the Commission conduct a preliminary review to determine if there is cause to investigate. Roll call vote was taken as follows: Starr, aye; Sosa, aye; Fiskum, aye; Kean, aye; O'Day, aye; Burke, aye. Motion passed unanimously.

AGENDA ITEM 65, Possible Own Motion Preliminary Review, exempt from Public Record. Fiskum moved that the Commission conduct a preliminary review to determine if there is cause to investigate. Roll call vote was taken as follows: Starr, aye; Sosa, aye; Fiskum, aye; Kean, aye; O'Day, aye; Burke, aye. Motion passed unanimously.

Other Items

(non-action informational only items)

None.

Review of Pending Litigation

(File 4)

AGENDA ITEM 66, Review of pending litigation exempt from Public Record.

(File 5)

The Commission reconvened into regular open session at 11:15 a.m.

Lobbyist Penalty Correspondence

AGENDA ITEM 19, Taryn Nugent, 2018 Q4, \$20; 2019 Q2, \$80.

Recommendation: Letter of Education 2018 Q4, \$50 2019 Q2. The Commission briefly discussed the matter. Sosa moved to accept staff recommendation of a Letter of Education for 2018 Q4 and reduce to \$50 for 2019 Q2. Roll call vote was taken as follows: Starr, aye; Sosa, aye; Fiskum, aye; Kean, aye; O'Day, aye; Burke, aye. Motion passed unanimously.

Lobbyist Client Penalty Correspondence

AGENDA ITEM 20, Higher Education Coord. Commission, 2016 Q3, \$20 and 2017 Q1, \$20. Recommendation: Letter of Education 2016 Q3, \$20 2017 Q1. The Commission briefly discussed. Sosa moved to accept staff recommendation of a Letter of Education for 2016 Q3, and maintain \$20 for 2017 Q1. Roll call vote was taken as follows: Starr, aye; Sosa, aye; Fiskum, aye; Kean, aye; O'Day, aye; Burke, aye. Motion passed unanimously.

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AGENDA ITEM 21, Foster Homes of Healing, 2018 Q2, \$20; 2019 Q2 \$80. Recommendation: Letter of Education 2018 Q2, \$50 2019 Q2. Starr moved to accept staff recommendation of a Letter of Education for 2018 Q2, and reduce to \$50 for 2019 Q2. Fiskum was excused from the room. Roll call vote was taken as follows: Starr, aye; Sosa, aye; Kean, aye; O'Day, aye; Burke, aye. Motion passed unanimously.

Statement of Economic Interest Penalty Correspondence

AGENDA ITEM 22, Lorrie Zeller, 2018 SEI \$20; 2019 SEI \$3,260. Recommendation: Letter of Education for 2018, \$326 for 2019. Sosa moved to accept staff recommendation of a Letter of Education for 2018 and reduce to \$326 for 2019. Roll call vote was taken as follows: Starr, aye; Sosa, aye; Fiskum, aye; Kean, aye; O'Day, aye; Burke, aye. Motion passed unanimously.

AGENDA ITEM 23, Jeff Haag, 2018 SEI \$260; 2019 SEI \$100. Recommendation: None. The Commission briefly discussed. Sosa moved for a Letter of Education for 2018 and reduce to \$50 for 2019. Roll call vote was taken as follows: Starr, aye; Sosa, aye; Fiskum, aye; Kean, aye; O'Day, aye; Burke, aye. Motion passed unanimously.

STIPULATED FINAL ORDERS

AGENDA ITEM 24, 19-179EHW, James Bernard, Clackamas County Commissioner. Gould summarized the case. Bernard did not address the Commission. Fiskum 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. Burke was excused from the room. Roll call vote was taken as follows: Starr, aye; Sosa, aye; Fiskum, aye; Kean, aye; O'Day, aye. Motion passed unanimously.

AGENDA ITEM 25, 19-010XSM, Kate Fent, Chair

AGENDA ITEM 26, 19-011XSM, Heather Melville, Member

AGENDA ITEM 27, 19-012XSM, Mandy Decker, Member

AGENDA ITEM 28, 19-013XSM, Mike Wiedeman, Member

AGENDA ITEM 29, 19-014SXM, Adrian Harguess, Member

Board of Directors, Enterprise School District, Wallowa County School District #21

Myers summarized the cases. Respondents did not address the Commission.

Kate Fent: 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: Starr, aye; Sosa, aye; Fiskum, aye; Kean, aye; O'Day, aye; Burke, aye. Motion passed unanimously.

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Heather Melville: 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: Starr, aye; Sosa, aye; Fiskum, aye; Kean, aye; O'Day, aye; Burke, aye. Motion passed unanimously.

Mandy Decker: 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: Starr, aye; Sosa, aye; Fiskum, aye; Kean, aye; O'Day, aye; Burke, aye. Motion passed unanimously.

Mike Wiedeman: 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: Starr, aye; Sosa, aye; Fiskum, aye; Kean, aye; O'Day, aye; Burke, aye. Motion passed unanimously.

Adrian Harguess: 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: Starr, aye; Sosa, aye; Fiskum, aye; Kean, aye; O'Day, aye; Burke, aye. Motion passed unanimously.

AGENDA ITEM 30, 19-099XSM, Thomas Ongman, Chair and Member
AGENDA ITEM 31, 19-101XSM, Larita Ongman, Member
AGENDA ITEM 32, 19-102XSM, Jim Derra, Member
Board of Directors, Basin Ambulance Service District
Myers summarized the cases. The respondents did not address the Commission.

Thomas Ongman: 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. O'Day was excused from the room. Roll call vote was taken as follows: Starr, aye; Sosa, aye; Fiskum, aye; Kean, aye; Burke, aye. Motion passed unanimously.

Larita Ongman: 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. O'Day was excused from the room. Roll call vote was taken as follows: Starr, aye; Sosa, aye; Fiskum, aye; Kean, aye; Burke, aye. Motion passed unanimously.

Jim Derra: 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. O'Day was excused from the room. Roll call vote was taken as follows: Starr, aye; Sosa, aye; Fiskum, aye; Kean, aye; Burke, aye. Motion passed unanimously.

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AGENDA ITEM 33, 19-128XSM, Tom McCoy, Member
AGENDA ITEM 34, 19-129XSM, Karen Joplin, Member
AGENDA ITEM 35, 19-130XSM, Scott Hege, Member
Tri-County Mental Health Board, Mid-Columbia Center
Myers summarized the cases. Respondents did not address the Commission.

Tom McCoy: 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: Starr, aye; Sosa, aye; Fiskum, aye; Kean, aye; O'Day, aye; Burke, aye. Motion passed unanimously.

Karen Joplin: 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: Starr, aye; Sosa, aye; Fiskum, aye; Kean, aye; O'Day, aye; Burke, aye. Motion passed unanimously.

Scott Hege: 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: Starr, aye; Sosa, aye; Fiskum, aye; Kean, aye; O'Day, aye; Burke, aye. Motion passed unanimously.

DEFAULT FINAL ORDERS

None.

ADVISORY OPINIONS

AGENDA ITEM 37, 19-173A, Michael Duyck, Chair Statewide Interoperability Executive Council, (SIEC Oregon), re whether public officials who are first responders may subscribe to AT&T FirstNet cell service for personal phones or devices. Gould summarized the Opinion. Sosa moved to adopt the advisory opinion as presented. Roll call vote was taken as follows: Starr, aye; Sosa, aye; Fiskum, aye; Kean, aye; O'Day, aye; Burke, aye. Motion passed unanimously.

The Commission recessed for a working lunch at 11:38 a.m. and resumed into regular session at 11:45 a.m.

MISCELLANEOUS ITEMS

AGENDA ITEM 47, Training. Commission viewed training re: Discrimination, Harassment, & Sexual Harassment. Training for Information Security will be viewed at the next Commission meeting.

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CORRESPONDENCE RECEIVED/RESPONSES

Staff Opinions

(non-action, informational only items)

None.

Staff Advice

(non-action, information only items)

AGENDA ITEM 38, 19-159I, Lisa Freiley, Willamette ESD re reimbursement of expenses of a public official's attorney fees by the public body they serve. The Commission briefly discussed the advice.

AGENDA ITEM 39, 19-160I, Senator Arnie Roblan, Oregon Coastal Caucus re application of Oregon Government Ethics law and related statutes to the participation of public officials in a fact-finding mission, during which food and beverage will be provided.

AGENDA ITEM 40, 19-161I, Tim Sekerak, Chief Clerk of the House re how Oregon Government Ethics law may apply to legislative officials who have been invited to represent the State of Oregon to participate in the 2019 Delegation to Taiwan.

AGENDA ITEM 41, 19-163I, Steve Elzinga, Sherman Sherman Johnnie & Hoyt, LLP re application of Oregon Government Ethics law to personal circumstances as a Salem Planning Commission⁵ and an attorney at a Salem law firm.

AGENDA ITEM 42, 19-164I, Erin A. Fennerty re potential ethical issues arising for a school board director who is also employed by Planned Parenthood of Southwestern Oregon.

AGENDA ITEM 43, 19-166I, Milo Denham re application of Oregon Government Ethics law to financial benefits offered by the Island Station Neighborhood District Association Board.

AGENDA ITEM 44, 19-172I, Tim Sekerak, Chief Clerk of the House re application of Oregon Government Ethics law to legislative officials who have been invited to represent the State of Oregon at the 2019 Hawaii Road Usage Charge Workshop.

Other Correspondence

(non-action, informational only items)

None.

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MISCELLANEOUS ITEMS

AGENDA ITEM 46, Review of Best Practices Survey. The Commission generally discussed the survey results.

AGENDA ITEM 48, Trainers' Report. Hedrick summarized past and future training activities.

AGENDA ITEM 49, Executive Director's Report. Bersin discussed the following:

- 2017-2019 biennial budget: Bersin reviewed the status of the 2017-2019 budget.
- 2019 SEIs, 100% have filed.
- Compliance Specialist 2 position recruitment complete. New employee starts 8/26/19.
- 2019 Lobby expenditure reports status reviewed.
- Best Practices survey reviewed.
- Indonesian delegation met with OGEC staff.
- Audit discussed.
- Next Commission meeting date discussed.

Chair Burke adjourned the meeting at 1:08 p.m.

The next scheduled meeting date of the Oregon Government Ethics Commission is set for Thursday, October 3, 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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