

OREGON GOVERNMENT ETHICS COMMISSION
MEETING MINUTES
February 13, 2020
9:00 a.m.

(File 1)

Chair Nathan Sosa called the meeting to order at 9:04 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, Alison Kean, Karly Edwards, and Richard Burke (joined at 9:10 a.m.). Anna Sortun and David Fiskum joined by telephone. Sean O'Day and Dan Mason were excused. 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 Lisa Christon, and Administrative Specialist Kathy Baier.

AGENDA ITEM 1, Comments from the Chair. Sosa welcomed all.

AGENDA ITEM 2, Approval of minutes of the January 3, 2020 Commission meeting. Kean called for the approval of the minutes of the January 3, 2020 commission meeting. The minutes were approved without correction.

CONSENT CALENDAR

Kean moved for the approval of Consent Calendar items 3-9, and the recommendation on each as follows:

Lobbyist Penalty Correspondence

AGENDA ITEM 3, Marissa Cade, Q3 2019, Letter of Education

AGENDA ITEM 4, Richard Reiten, Q4 2019, Letter of Education

AGENDA ITEM 5, Cynthia Stinson, Q4 2019, Letter of Education

AGENDA ITEM 6, Adam Crawford, Q4 2019, Letter of Education

Lobbyist Client Penalty Correspondence

AGENDA ITEM 7, Oregon Wine Council, Q4 2019, Letter of Education

AGENDA ITEM 8, Cascadia Behavioral Healthcare, Q4 2019, Letter of Education

AGENDA ITEM 9, Friends of Trees, Q3 2019, Letter of Education

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

End of Consent Calendar

(File 2)

The Commission convened into executive session at 9:07 a.m. to consider Preliminary Reviews pursuant to ORS 244.260(4)(d) and ORS 192.685(1), and possible own motion preliminary reviews pursuant to ORS 244.260(2)(d).

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 35, 19-289ELC, Mary Nielsen, Vice Chair, Oregon Board of Certified Advanced Estheticians. Christon summarized the case. Nielsen was present and addressed the Commission. Burke moved that the Commission find that there is a substantial, objective basis for believing that Mary Nielsen may have violated ORS 244.020(1) and 244.040(1) and that the Commission should investigate accordingly. Roll call vote was taken as follows: Sortun, aye; Edwards, aye; Fiskum, aye; Kean, aye; Starr, aye; Burke, aye; Sosa, aye. Motion passed unanimously.

AGENDA ITEM 30, 19-284XSM, Brett Webb, President, Board of Commissioners, Port of Port Orford. Myers summarized the case. Webb joined by telephone and addressed the Commission. Webb then terminated the call per Commission request.

AGENDA ITEM 31, 19-285XSM, David Bassett, Board of Commissioners, Port of Port Orford. Myers summarized the case. Bassett joined by telephone and addressed the Commission. Bassett then terminated the call per Commission request.

AGENDA ITEM 32, 19-286XSM, Tom Calvanese, Board of Commissioners, Port of Port Orford. Myers summarized the case. Calvanese joined by telephone and addressed the Commission. Calvanese then terminated the call per Commission request.

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AGENDA ITEM 34, 19-288XSM, Aaron Ashdown, Board of Commissioners, Port of Port Orford. Myers summarized the case. Ashdown joined by telephone and addressed the Commission. Ashdown then terminated the call per Commission request.

AGENDA ITEM 33, 19-287XSM, Leila Thompson, Board of Commissioners, Port of Port Orford. Myers summarized the case. Thompson did not address the Commission.

Bersin discussed the Port of Port Orford cases. Alpaugh joined the discussion. The Commission generally discussed all the cases in the matter of Port of Port Orford.

Item 30. Starr moved that the Commission find that there is a substantial, objective basis for believing that Brett Webb may have violated ORS 192.660 and that the Commission should investigate accordingly. Roll call vote was taken as follows: Sortun, aye; Edwards, aye; Fiskum, aye; Kean, aye; Starr, aye; Burke, aye; Sosa, aye. Motion passed unanimously.

Item 31. Starr moved that the Commission find that there is a substantial, objective basis for believing that David Bassett may have violated ORS 192.660 and that the Commission should investigate accordingly. Roll call vote was taken as follows: Sortun, aye; Edwards, aye; Fiskum, aye; Kean, aye; Starr, aye; Burke, aye; Sosa, aye. Motion passed unanimously.

Item 32. Starr moved that the Commission find that there is a substantial, objective basis for believing that Tom Calvanese may have violated ORS 192.660 and that the Commission should investigate accordingly. Roll call vote was taken as follows: Sortun, aye; Edwards, aye; Fiskum, aye; Kean, aye; Starr, aye; Burke, aye; Sosa, aye. Motion passed unanimously.

Item 33. Starr moved that the Commission find that there is a substantial, objective basis for believing that Leila Thompson may have violated ORS 192.660 and that the Commission should investigate accordingly. Roll call vote was taken as follows: Sortun, aye; Edwards, aye; Fiskum, aye; Kean, aye; Starr, aye; Burke, aye; Sosa, aye. Motion passed unanimously.

Item 34. Starr moved that the Commission find that there is a substantial, objective basis for believing that Aaron Ashdown may have violated ORS 192.660 and that the Commission should investigate accordingly. Roll call vote was taken as follows: Sortun, aye; Edwards, aye; Fiskum, aye; Kean, aye; Starr, aye; Burke, aye; Sosa, aye. Motion passed unanimously.

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Own Motion Preliminary Reviews

(File 3)

AGENDA ITEM 36, Possible Own Motion Preliminary Review, exempt from Public Record. Kean moved that the Commission conduct a preliminary review to determine if there is cause to investigate. Roll call vote was taken as follows: Sortun, aye; Edwards, aye; Fiskum, aye; Kean, aye; Starr, aye; Burke, aye; Sosa, aye. Motion passed unanimously.

(File 4)

AGENDA ITEM 37, Possible Own Motion Preliminary Review, exempt from Public Record. Burke moved that the Commission conduct a preliminary review to determine if there is cause to investigate. Roll call vote was taken as follows: Sortun, aye; Edwards, aye; Fiskum, aye; Kean, aye; Starr, aye; Burke, aye; Sosa, aye. Motion passed unanimously.

Other Items

None.

The Commission recessed at 10:08 a.m. and reconvened into regular session at 10:15 a.m.

Lobbyist Penalty Correspondence

(File 5)

AGENDA ITEM 10, Rhett Lawrence, Q4 2019, \$70. Fiskum commented on Letter of Explanation. Fiskum moved to adopt staff recommendation of \$50 for second violation. Roll call vote was taken as follows: Sortun, aye; Edwards, aye; Fiskum, aye; Kean, aye; Starr, aye; Burke, aye; Sosa, aye. Motion passed unanimously.

AGENDA ITEM 11, Sydney Scout, Q3 2019 \$50; Q4 2019 \$70. Edwards abstained due to a working relationship. Bersin summarized his recommendation. Burke moved to adopt staff recommendation to not reduce penalties due to previous violations. Roll call vote was taken as follows: Sortun, aye; Edwards, abstained; Fiskum, aye; Kean, aye; Starr, aye; Burke, aye; Sosa, aye. Motion passed 6 – 0 with 1 abstention.

Lobbyist Client Penalty Correspondence

AGENDA ITEM 12, Miracles Club, Q4 2019 \$130. Bersin summarized his recommendation. Starr moved to adopt staff recommendation of \$100 for third violation. Roll call vote was taken as follows: Sortun, aye; Edwards, aye; Fiskum, aye; Kean, aye; Starr, aye; Burke, aye; Sosa, aye. Motion passed unanimously.

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AGENDA ITEM 13, Bend Parks & Recreation District, Q1 2019 \$10; Q3 2019 \$20; Q4 2019 \$60. Bersin summarized his recommendation. Burke moved to adopt staff recommendation of Letter of Education for Q1 2019; maintain \$20 for Q3 2019 and \$60 for Q4 2019. Roll call vote was taken as follows: Sortun, aye; Edwards, aye; Fiskum, aye; Kean, aye; Starr, aye; Burke, aye; Sosa, aye. Motion passed unanimously.

STIPULATED FINAL ORDERS

AGENDA ITEM 14, 17-123SDG and 17-138SDG, James Copfer, Planning Commissioner, City of Sherwood. Gould summarized the cases. Copfer did not address the Commission. Burke moved that the Commission accept the proposed Stipulated Final Order as the final order in these matters and that the chairperson be authorized to sign it as such. Roll call vote was taken as follows: Sortun, aye; Edwards, aye; Fiskum, aye; Kean, aye; Starr, aye; Burke, aye; Sosa, aye. Motion passed unanimously.

DEFAULT FINAL ORDERS

AGENDA ITEM 15, 18-171XDG, Zachariah Dell, Councilor, City of Gold Hill. Gould summarized the case. Dell did not address the Commission. The Commission generally discussed the final order. Burke moved that the Commission accept the Default 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: Sortun, aye; Edwards, aye; Fiskum, aye; Kean, aye; Starr, aye; Burke, aye; Sosa, aye. Motion passed unanimously.

REPORTS OF INVESTIGATIONS

None.

ADVISORY OPINIONS

None.

CORRESPONDENCE RECEIVED/RESPONSES

Staff Opinions

(non-action, informational only items)

None.

Staff Advice

(non-action, information only items)

The Commission reviewed the following without comment unless otherwise noted:

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AGENDA ITEM 17, 19-276I, Evan Boone, Lake Oswego City Attorney's Office, re application of Oregon Government Ethics law to whether the artwork, made as a byproduct of the employee's teaching duties, could be retained by the employee under ORS 244.040. The Commission briefly discussed the advice.

AGENDA ITEM 18, 19-282I, Christine John, Scenic Middle School, re application of Oregon Government Ethics law to a travel company's rewards program offered to teachers. The Commission briefly discussed the advice and past advice on similar situation for clarification.

AGENDA ITEM 19, 20-001I, Jan Lee, Executive Director, Oregon Association of Conservation Districts, re whether and when a person who lobbies on behalf of their employer or association must register as a lobbyist.

AGENDA ITEM 20, 20-003I, Jo Morgan, Oregon Department of Agriculture, re application of Oregon Government Ethics law to post-employment restrictions.

AGENDA ITEM 21, 20-009I, Karis Alston, Oregon Department of Transportation, re application of Oregon Government Ethics law to your invitation to speak to a group of directors at Oregon State University.

AGENDA ITEM 22, 20-012I, Kristopher W. Strickler, Director, Oregon Department of Transportation, re guidance on the disclosure and disposition of conflicts of interest that may arise in the new position as Director of the Oregon Department of Transportation.

AGENDA ITEM 23, 20-015I, Leota Childress, Council President, City of Molalla, re ethics issues that may arise with respect to Molalla HOPE, Inc., a business with which you are associated.

AGENDA ITEM 24, 20-016I, Luisa Amori, HR Office, Oregon Health Authority, re application of Oregon Government Ethics law to an employee's outside business activity.

AGENDA ITEM 25, 20-017I, Buffy Rider, HR, Oregon Health Authority re whether Oregon Government Ethics law would permit the Tribal Affairs Director to accept a blanket as a gift from the Native American Rehabilitation Association. The Commission briefly discussed the advice.

AGENDA ITEM 26, 20-018I, Shelby Rihala, City Attorney, City of Tigard, re application of Oregon Government Ethics law as to City Councilors attending events where their attendance is paid for by the City.

Other Correspondence
(non-action, informational only items)

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None.

MISCELLANEOUS ITEMS

AGENDA ITEM 28, Trainers' Report. Walker summarized past and future training activities. The Commission generally discussed trainings. Bersin announced that a recruitment is open for a new Trainer and it closes 2/24/2020. Secretary of State Auditors requested OGEC to provide training at an upcoming event in Portland.

AGENDA ITEM 29, Executive Director's Report. Bersin reviewed the following:

- 19-21 Budget update.
- 2019 SEIs are 100% filed.
- Audit by Secretary of State's office has resumed.
- Lobbyist registration renewals are going well.
- Lobbyist Q4 2019 expenditure reports 100% filed.
- Client Q4 2019 expenditure reports all but 3 have filed.
- HB 4123 will be before Legislature re expansion of business reporting on SEI.

The Commission recessed for a working lunch at 11:10 a.m. and resumed into regular session at 11:20 a.m.

(File 6)

AGENDA ITEM 27, Discussion re Legislative Concepts

Bersin asked Commissioners about Statutes that may impede their actions:

- Definition of Media. Outline a process.
- 30 day preliminary review. Request more time? Two track system? Eliminating PR?
- When are bodies in Executive Session? Need clarification. Define in OAR?
- Prohibition of using public funds to pay civil penalties.
- Entity policies may be in disagreement with the ethics statutes. Is there a way to fix?
- Unexpired commission terms. Staff recommendation in regards to replacement or how to handle.

Chair Sosa adjourned the meeting at 11:45 p.m.

The next scheduled meeting date of the Oregon Government Ethics Commission is set for FRIDAY, March 27, 2020, 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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