OREGON GOVERNMENT ETHICS COMMISSION

MEETING MINUTES

July 23, 2021 9:00 a.m.

(File 1)

Vice-Chair Dave Fiskum called the meeting to order at 9:01 a.m. The meeting was held by video conference in the 2nd Floor Conference Room of the Morrow Crane Building at 3218 Pringle Rd SE Salem, Oregon. Commission Vice-Chair Dave Fiskum was present. Commissioners participating by video conference were Nathan Sosa, Amber Hollister, Shawn Lindsay, and Chair Dan Mason. OGEC Counsel Josh Nasbe was present. Staff present were Executive Director Ron Bersin, Compliance and Education Coordinator Diane Gould, Investigator Susan Myers, Investigator Lisa Christon, Program Analyst Becky Maison, and Trainers Monica Walker and Stephanie Heffner.

AGENDA ITEM 1, Comments from the Chair. Vice-Chair Fiskum shared general comments and chaired the meeting as Chair Mason joined by video conference.

<u>AGENDA ITEM 2</u>, Approval of minutes of the June 11, 2021, Commission meeting. The minutes were approved without correction.

CONSENT CALENDAR

Sosa moved for the approval of Consent Calendar items 3 -11 and the recommendation on each as follows:

Lobbyist Penalty Correspondence

None.

<u>Lobbyist Client Penalty Correspondence</u>

AGENDA ITEM 3, NICUSA, Q2 2020, Letter of Education.

AGENDA ITEM 4, Verde, Q1 2021, Letter of Education.

SEI Penalty Correspondence

AGENDA ITEM 5, Lori Stegmann, 2021 SEI, Letter of Education.

AGENDA ITEM 6, Jacob McKay, 2021 SEI, Letter of Education.

AGENDA ITEM 7, Lawrence Weberg, 2021 SEI, Letter of Education.

AGENDA ITEM 8, Tim Collins, 2021 SEI, Letter of Education.

AGENDA ITEM 9, Theresa McKnight, 2021 SEI, Letter of Education.

AGENDA ITEM 10, Robert Mosby, 2021 SEI, Letter of Education.

AGENDA ITEM 11, Sam Baraso, 2021 SEI, Letter of Education.

Roll call was taken as follows: Lindsay, aye; Hollister, aye; Sosa, aye; Mason, aye; Fiskum, aye. Motion passed 5 - 0.

End of Consent Calendar

(File 2)

The Commission convened into executive session at 9:06 a.m. to consider Preliminary Reviews pursuant to ORS 244.260(4)(d) and ORS 192.685(1).

Member of the media, Holly Dellamuth from Jefferson Public Radio joined Executive Session.

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 49, 21-133ELC, Karen LaBonte, Public Works Director, City of Cannon Beach. Christon summarized the case. LaBonte and Attorney Mark Wolf addressed the Commission via video conference. The Commission discussed the matter. Bersin addressed the Commission. Sosa moved that the Commission find that there is a substantial, objective basis for believing that Karen LaBonte may have violated ORS 244.040(1) and ORS 244.120 and that the Commission should investigate accordingly. Roll call was taken as follows: Lindsay, aye; Hollister, aye; Sosa, aye; Mason, aye; Fiskum, aye. Motion passed 5 – 0.

(File 3)

Member of the media, Rick Childress from Klamath Falls "Herald and News" joined Executive Session.

AGENDA ITEM 25, 21-091XSM, James Burke

AGENDA ITEM 26, 21-092XSM, Walter Chuck

AGENDA ITEM 27, 21-093XSM, Jeff Lackey

AGENDA ITEM 28, 21-094XSM, Gilbert Sylvia

AGENDA ITEM 29, 21-095XSM, Kelley Retherford

Commissioners, Port of Newport

Myers summarized the cases. Burke, Chuck, Lackey, Sylvia, and Retherford addressed the Commission via video conference. The Commission discussed the cases.

<u>Item 25</u>, Sosa moved that the Commission find that there is a substantial, objective basis for believing that James Burke may have violated ORS 192.660 and that the Commission should investigate accordingly. Roll call was taken as follows: Lindsay, aye; Hollister, nay; Sosa, aye; Mason, aye; Fiskum, aye. Motion failed 4 – 1.

<u>Item 26</u>, Sosa moved that the Commission find that there is a substantial, objective basis for believing that Walter Chuck may have violated ORS 192.660 and that the Commission should investigate accordingly. Roll call was taken as follows: Lindsay, aye; Hollister, nay; Sosa, aye; Mason, aye; Fiskum, aye. Motion failed 4 - 1.

<u>Item 27</u>, Sosa moved that the Commission find that there is a substantial, objective basis for believing that Jeff Lackey may have violated ORS 192.660 and that the Commission should investigate accordingly. Roll call was taken as follows: Lindsay, aye; Hollister, nay; Sosa, aye; Mason, aye; Fiskum, aye. Motion failed 4 - 1.

<u>Item 28</u>, Sosa moved that the Commission find that there is a substantial, objective basis for believing that Gilbert Sylvia may have violated ORS 192.660 and that the Commission should investigate accordingly. Roll call was taken as follows: Lindsay, aye; Hollister, nay; Sosa, aye; Mason, aye; Fiskum, aye. Motion failed 4 - 1.

<u>Item 29</u>, Sosa moved that the Commission find that there is a substantial, objective basis for believing that Kelley Retherford may have violated ORS 192.660 and that the Commission should investigate accordingly. Roll call was taken as follows: Lindsay, aye; Hollister, nay; Sosa, aye; Mason, aye; Fiskum, aye. Motion failed 4 – 1.

Commission recessed at 10:18 and reconvened into Executive Session at 10:25 a.m.

(File 4)

AGENDA ITEM 30, 21-102ELC, Melissa Bjarnson, City Councilor, City of Oakridge. Christon summarized the case. Bjarnson addressed the Commission via video

conference. The Commission briefly discussed and Nasbe commented on the matter. Sosa 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 was taken as follows: Lindsay, aye; Hollister, aye; Sosa, aye; Mason, aye; Fiskum, aye. Motion passed 5-0.

<u>AGENDA ITEM 31, 21-103ELC</u>, Christina Hollett, City Councilor, City of Oakridge. Christon summarized the case. Hollett addressed the Commission via video conference. The Commission briefly discussed the matter. Lindsay 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 was taken as follows: Lindsay, aye; Hollister, aye; Sosa, aye; Mason, aye; Fiskum, aye. Motion passed 5-0.

(File 5)

AGENDA ITEM 32, 21-111XLC, John Parker

AGENDA ITEM 33, 21-112XLC, Jennifer Bragg

AGENDA ITEM 34, 21-113XLC, Kat Stone

AGENDA ITEM 35, 21-114XLC, Mike Baker

AGENDA ITEM 36, 21-115XLC, Sarah Thompson

AGENDA ITEM 37, 21-116XLC, Lonnie Rainville

AGENDA ITEM 38, 21-117XLC, Mark Hendershott

Members, Board of Directors, Umpqua Public Transportation District.

Christon summarized the case. Parker addressed the Commission via video conference. The Commission discussed the cases.

<u>Item # 32</u>, Sosa moved that the Commission find that there is a substantial, objective basis for believing that John Parker may have violated ORS 192.660 and that the Commission should investigate accordingly. Roll call was taken as follows: Lindsay, aye; Hollister, aye; Sosa, aye; Mason, aye; Fiskum, aye. Motion passed 5-0.

<u>Item # 33</u>, Sosa moved that the Commission find that there is a substantial, objective basis for believing that Jennifer Bragg may have violated ORS 192.660 and that the Commission should investigate accordingly. Roll call was taken as follows: Lindsay, aye; Hollister, aye; Sosa, aye; Mason, aye; Fiskum, aye. Motion passed 5 - 0.

<u>Item # 34</u>, Sosa moved that the Commission find that there is a substantial, objective basis for believing that Kat Stone may have violated ORS 192.660 and that the Commission should investigate accordingly. Roll call was taken as follows: Lindsay, aye; Hollister, aye; Sosa, aye; Mason, aye; Fiskum, aye. Motion passed 5 – 0.

<u>Item # 36</u>, Sosa moved that the Commission find that there is a substantial, objective basis for believing that Sarah Thompson may have violated ORS 192.660 and that the Commission should investigate accordingly. Roll call was taken as follows: Lindsay, aye; Hollister, aye; Sosa, aye; Mason, aye; Fiskum, aye. Motion passed 5 - 0.

<u>Item # 37</u>, Sosa moved that the Commission find that there is a substantial, objective basis for believing that Lonnie Rainville may have violated ORS 192.660 and that the Commission should investigate accordingly. Roll call was taken as follows: Lindsay, aye; Hollister, aye; Sosa, aye; Mason, aye; Fiskum, aye. Motion passed 5 - 0.

<u>Item # 38</u>, Sosa moved that the Commission find that there is a substantial, objective basis for believing that Mark Hendershott may have violated ORS 192.660 and that the Commission should investigate accordingly. Roll call was taken as follows: Lindsay, aye; Hollister, aye; Sosa, aye; Mason, aye; Fiskum, aye. Motion passed 5 - 0.

<u>Item # 35</u>, Sosa moved that the Commission find that there is a substantial, objective basis for believing that Mike Baker may have violated ORS 192.660 and that the Commission should investigate accordingly. Roll call was taken as follows: Lindsay, aye; Hollister, aye; Sosa, aye; Mason, aye; Fiskum, aye. Motion passed 5 - 0.

(File 6)

<u>AGENDA ITEM 40, 21-119XLC</u>, Cary McGagin, Member, Board of Directors, Southern Coos Health District. Christon summarized the case. McGagin did not address the Commission. The Commission generally discussed the matter. Lindsay moved that the Commission find that the complaint and information before the Commission do not indicate a violation of ORS Chapter 192.660 or warrant further review and that this complaint be dismissed. Roll call was taken as follows: Lindsay, aye; Hollister, aye; Sosa, aye; Mason, aye; Fiskum, aye. Motion passed 5-0.

AGENDA ITEM 41, 21-120XLC, Norbert Johnson, Member, Board of Directors, Southern Coos Health District. Christon summarized the case. Johnson addressed the Commission via video conference. Sosa moved that the Commission find that the complaint and information before the Commission do not indicate a violation of ORS Chapter 192.660 or warrant further review and that this complaint be dismissed. Roll call was taken as follows: Lindsay, aye; Hollister, aye; Sosa, aye; Mason, aye; Fiskum, aye. Motion passed 5-0.

AGENDA ITEM 39, 21-118XLC, Brent Bischoff, Member, Board of Directors, Southern Coos Health District. Christon summarized the case. Bischoff 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 192.660 or warrant further review and that this complaint be dismissed. Roll call was taken as follows: Lindsay, aye; Hollister, aye; Sosa, aye; Mason, aye; Fiskum, aye. Motion passed 5 – 0.

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AGENDA ITEM 42, 21-121XLC, David Allen, Member, Board of Directors, Southern Coos Health District. Christon summarized the case. Allen 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 192.660 or warrant further review and that this complaint be dismissed. Roll call was taken as follows: Lindsay, aye; Hollister, aye; Sosa, aye; Mason, aye; Fiskum, aye. Motion passed 5 – 0.

AGENDA ITEM 43, 21-122XLC, Edie Jurgenson, Member, Board of Directors, Southern Coos Health District. Christon summarized the case. Jurgenson 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 192.660 or warrant further review and that this complaint be dismissed. Roll call was taken as follows: Lindsay, aye; Hollister, aye; Sosa, aye; Mason, aye; Fiskum, aye. Motion passed 5 – 0.

Commission recessed for lunch at 11:33 and reconvened into Executive Session at 11:45 a.m.

(File 7)

AGENDA ITEM 44, 21-124XSM, Kim Butzner

AGENDA ITEM 45, 21-125XSM, Michael Thomson

AGENDA ITEM 46, 21-126XSM, Jennifer Ward

AGENDA ITEM 47, 21-127XSM, Justin Roach

AGENDA ITEM 48, 21-131XSM, Eric Aguinaga

Board Members, Linn County School District No. 8J Greater Albany Public Schools. Myers summarized the cases together. The board members did not address the Commission. The Commission and Bersin generally discussed the matter.

<u>Item #44</u>, Sosa moved that the Commission find that there is a substantial, objective basis for believing that Kim Butzner may have violated ORS 192.660 and that the Commission should investigate accordingly. Roll call was taken as follows: Lindsay, aye; Hollister, aye; Sosa, aye; Mason, aye; Fiskum, aye. Motion passed 5-0.

<u>Item #45</u>, Sosa moved that the Commission find that there is a substantial, objective basis for believing that Michael Thomson may have violated ORS 192.660 and that the Commission should investigate accordingly. Roll call was taken as follows: Lindsay, aye; Hollister, aye; Sosa, aye; Mason, aye; Fiskum, aye. Motion passed 5 - 0.

<u>Item #46</u>, Sosa moved that the Commission find that there is a substantial, objective basis for believing that Jennifer Ward may have violated ORS 192.660 and that the Commission should investigate accordingly. Roll call was taken as follows: Lindsay, aye; Hollister, aye; Sosa, aye; Mason, aye; Fiskum, aye. Motion passed 5 - 0.

<u>Item #47</u>, Sosa moved that the Commission find that there is a substantial, objective basis for believing that Justin Roach may have violated ORS 192.660 and that the Commission should investigate accordingly. Roll call was taken as follows: Lindsay, aye; Hollister, aye; Sosa, aye; Mason, aye; Fiskum, aye. Motion passed 5 - 0.

<u>Item #48</u>, Sosa moved that the Commission find that there is a substantial, objective basis for believing that Eric Aguinaga may have violated ORS 192.660 and that the Commission should investigate accordingly. Roll call was taken as follows: Lindsay, aye; Hollister, aye; Sosa, aye; Mason, aye; Fiskum, aye. Motion passed 5 - 0.

Own Motion Preliminary Reviews

None.

Other Items

None.

Commission reconvened into regular session at 11:57 a.m.

Lobbyist Penalty Correspondence

(File 8)

AGENDA ITEM 12, Kevin Billman, Q4 2020, \$1,400, Q1 2021, \$50. Recommendation: Q4 2020 Letter of Education; Q1 2021 \$50. Bersin summarized his recommendation. The Commission generally discussed the matter. Sosa moved to accept recommendation of Letter of Education for Q4 2020 and \$50 for Q1 2021. Roll call was taken as follows: Lindsay, aye; Hollister, aye; Sosa, aye; Mason, aye; Fiskum, aye. Motion passed 5 – 0.

SEI Penalty Correspondence

<u>AGENDA ITEM 13</u>, Beth Rankin, 2020 \$80 and 2021 \$120. Recommendation: 2020 Letter of Education; 2021 \$50. Bersin summarized the matter. Sosa moved to accept recommendation of Letter of Education for 2020 and \$50 for 2021. Roll call was taken as follows: Lindsay, aye; Hollister, aye; Sosa, aye; Mason, aye; Fiskum, aye. Motion passed 5-0.

AGENDA ITEM 14, Leslie Nuorala, 2021 SEI \$20. Received Letter of Education for 2019. Bersin summarized the matter and had no recommendation. Sosa moved to issue a Letter of Education for 2021. Roll call was taken as follows: Lindsay, aye; Hollister, aye; Sosa, aye; Mason, aye; Fiskum, aye. Motion passed 5 – 0.

STIPULATED FINAL ORDERS

AGENDA ITEM 15, 20-078ESM, Derrick DeGroot

AGENDA ITEM 15, 20-116ESM, Derrick DeGroot, Commissioner, Klamath County Board of Commissioners. Myers summarized the cases together. DeGroot did not address the Commission. The Commission and Bersin discussed the cases. Sosa moved that the Commission accept 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 was taken as follows: Lindsay, aye; Hollister, aye; Sosa, aye; Mason, aye; Fiskum, aye. Motion passed 5 – 0.

AGENDA ITEM 16, 21-033XSM, Connie Curteman, Member, Board of Directors, Clackamas County School District No. 62, Oregon City School District. Myers summarized the case. Curteman did not address the Commission. Sosa moved that the Commission accept 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 was taken as follows: Lindsay, aye; Hollister, aye; Sosa, aye; Mason, aye; Fiskum, aye. Motion passed 5 – 0.

<u>AGENDA ITEM 17, 21-034XSM</u>, Scott Dahlman, Member, Board of Directors, Clackamas County School District No. 62, Oregon City School District. Myers summarized the case. Dahlman did not address the Commission. Sosa moved that the Commission accept 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 was taken as follows: Lindsay, aye; Hollister, aye; Sosa, aye; Mason, aye; Fiskum, aye. Motion passed 5-0.

DEFAULT FINAL ORDERS

None.

ADVISORY OPINIONS

AGENDA ITEM 19, 21-070A, Kathryn A. Hall, on behalf of the Oregon High School Equestrian Teams, Inc. re application of Oregon Government Ethics law to statutory conflicts of interest and use of position for equestrian coaches at Oregon public high schools. Myers summarized the Advisory Opinion. The Commission generally discussed the opinion. Sosa moved to adopt the advisory opinion as presented. Roll call was taken as follows: Lindsay, aye; Hollister, aye; Sosa, aye; Mason, aye; Fiskum, aye. Motion passed 5-0.

REPORTS OF INVESTIGATION

AGENDA ITEM 18, 20-237ELC, Robert Michael Carter, Former Superintendent, Columbia School District #13, Rainier School District. Christon summarized the case. Robert Michael Carter addressed the Commission via video conference, however experienced intermittent connectivity issues. The Commission generally discussed the

case. 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 was taken as follows: Lindsay, aye; Hollister, aye; Sosa, aye; Mason, aye; Fiskum, aye. Motion passed 5 - 0.

CORRESPONDENCE RECEIVED/RESPONSES

The Commission reviewed the following without comment unless otherwise noted:

Staff Opinions

(non-action, informational only items)

None.

Staff Advice

(non-action, information only items)

AGENDA ITEM 20, 21-046I, Megan Thornton, City of Beaverton re application of Oregon Government Ethics laws to a planning commissioner who is an owner of a landscape architecture firm working on a community plan for the City of Beaverton.

AGENDA ITEM 21, 21-150I, Daniel Bunn, Rubicon Investments Corp. re application of Oregon Government Ethics law when your private business wishes to submit a development proposal to the jurisdiction that you serve as a public official.

Other Correspondence (non-action, informational only items)

None.

MISCELLANEOUS ITEMS

(File 8)

AGENDA ITEM 22, Administrative Rules. Gould presented the rules to the Commission. The Commission, Bersin and staff discussed and commented on the rules and suggested revisions.

<u>AGENDA ITEM 23</u>, Trainers' Report. Walker addressed the Commission and summarized the training activities. Newly hired trainer, Stephanie Heffner, was introduced by Walker and Bersin. Heffner briefly spoke to the Commission.

AGENDA ITEM 24, Executive Director's Report.

Bersin reviewed the following:

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- 2019-21 biennial budget still operating with a surplus;
- 2021-23 Legislatively adopted budget has been approved and signed by the Governor.
- DOJ has changed billing from flat rate fee to monthly pay-as-you-go, effective July 2021.
- Bersin complimented Nasbe on efficiency.
- Legislative update. Four OGEC Bills passed Senate and House, signed by the Governor.
- Bersin complimented staff for following up on 2021 non-filers:
 SEI, 3; Q2 Lobbyists, 2; Q2 Clients, 6 as of meeting date.
- Audit. Draft of 'Code of Conduct' will be emailed to Commissioners after meeting.
- Initiative petition and draft ballot title #12 which would change Ethics Commission make-up was reviewed. Possible November 2022 ballot measure.
- Reviewed SB 866 which would give DCBS Director certain permissions regarding ethics and public officials. May bring forth legislation in 2023 session to update verbiage.
- Advised upcoming Executive Session guide in January 2022 and additional training.

Commission comments: Lindsay inquired about future Commission meetings with Covid restrictions changing. Bersin stated an intent to continue hybrid model of virtual and inperson meetings.

Vice-Chair Fiskum adjourned the meeting at 1:05 p.m.

The next scheduled meeting date of the Oregon Government Ethics Commission is set for <u>WEDNESDAY</u>, <u>September 8, 2021</u>, 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, and will be conducted via video conference.
