

OREGON GOVERNMENT ETHICS COMMISSION
MEETING MINUTES
December 3, 2021
9:00 a.m.

(File 1)

Chair Dan Mason called the meeting to order at 9:00 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 and Commissioner Jonathan Thompson were present. Commissioners participating by video conference were Amber Hollister, Shawn Lindsay, Karly Edwards, Alicia McAuley, Robert Johnson, and Chair Dan Mason, as was OGE Council Josh Nasbe. Staff present were Executive Director Ron Bersin, Compliance and Education Coordinator Susan Myers, Investigator Torrey Sims, Program Analyst Becky Maison, and Trainers Monica Walker and Stephanie Heffner.

AGENDA ITEM 1, Comments from the Chair. Chair Mason chaired the meeting via video conference. Mason welcomed new Commissioners to their first meeting: Alicia McAuley, Jonathan Thompson, and Robert Johnson. Bersin introduced new staff investigator, Torrey Sims.

AGENDA ITEM 2, Approval of minutes of the October 22, 2021 Commission meeting. The minutes were approved without correction.

CONSENT CALENDAR

Fiskum moved for the approval of Consent Calendar items 3 - 20 and the recommendation on each as follows:

Lobbyist Penalty Correspondence

AGENDA ITEM 3, Andrew Swanson, Q3 2021, Letter of Education.

AGENDA ITEM 4, Alexander Cheng, Q3 2021, Letter of Education.

AGENDA ITEM 5, Nicole Peterson, Q3 2021, Letter of Education.

AGENDA ITEM 6, Dan Lombardi, Q3 2021, Letter of Education.

AGENDA ITEM 7, Heather Moline, Q3 2021, Letter of Education.

AGENDA ITEM 8, Alex Cerussi, Q3 2021, Letter of Education.

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AGENDA ITEM 9, Shawnee O'Brien-Lee, Q3 2021, Letter of Education.

Lobbyist Client Penalty Correspondence

AGENDA ITEM 10, City of Echo, Q3 2021, Letter of Education.

AGENDA ITEM 11, Oregon Media Production Assoc, Q3 2021, Letter of Education.

AGENDA ITEM 12, Apollo Entertainment, Q3 2021, Letter of Education.

AGENDA ITEM 13, OUTFRONT Media, Q3 2021, Letter of Education.

AGENDA ITEM 14, City of Stanfield, Q3 2021, Letter of Education.

AGENDA ITEM 15, Wheelhouse Northwest, Q3 2021, Letter of Education.

AGENDA ITEM 16, Oregon Cannabis Assoc, Q3 2021, Letter of Education.

AGENDA ITEM 17, Oregon Potato Commission, Q3 2021, Letter of Education.

AGENDA ITEM 18, Kinship Health, Q3 2021, Letter of Education.

AGENDA ITEM 19, OR School Based Health Alliance, Q3 2021, Letter of Education.

AGENDA ITEM 20, Oregon Recovers, Q3 2021, Letter of Education.

Voice vote was taken as follows: Fiskum, aye; Hollister, aye; Lindsay, aye; Edwards, aye; Thompson, aye; McAuley, aye; Mason, aye. Motion passed 7 – 0.

End of Consent Calendar

The Commission convened into executive session at 9:05 a.m. to consider Preliminary Reviews pursuant to ORS 244.260(4)(d), and to consider possible own motion reviews pursuant to ORS 171.778(1)(b), and to conduct the annual Executive Director performance review pursuant to ORS 192.660(2)(i).

EXECUTIVE SESSION CONSENT CALENDAR

Reports of Preliminary Review

(All items removed from consent calendar for discussion.)

End of Executive Session Consent Calendar.

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OTHER ITEMS

Reports of Preliminary Reviews (removed from consent calendar)

(File 2)

AGENDA ITEM 38, 21-213ESM, Rob Saxton, Interim Superintendent, Linn County School District 8J. Myers summarized the case. Saxton did not address the Commission. Attorney David Elkanich addressed the Commission virtually. The Commission discussed the case. Bersin and Counsel Nasbe commented.

Lindsey moved that the Commission find that the complaint and information available during Preliminary Review appears to be insufficient to constitute a substantial, objective basis for believing that a violation of the Oregon Government Ethics law has been committed by Rob Saxton or warrant further review. Roll call was taken as follows: Lindsay, aye; Edwards, nay; Thompson, aye; McAuley, nay; Fiskum, nay; Hollister, nay; Mason, nay. Motion failed 2 – 5. The Commission continued discussion.

Fiskum moved that the Commission find that there is a substantial, objective basis for believing that Rob Saxton may have violated ORS 244.177(1), 244.040(1), and 244.120(1)(c) and that the Commission should investigate accordingly. Roll call was taken as follows: Lindsay, nay; Edwards, aye; Thompson, aye; McAuley, aye; Fiskum, aye; Hollister, aye; Mason, aye. Motion passed 6 – 1.

(File 3)

AGENDA ITEM 39, 21-226ESM, William Carlson, Mayor, City of Merrill. Myers summarized the case. Carlson addressed the Commission by telephone. The Commission discussed the case. Fiskum moved that the Commission find that there is a substantial, objective basis for believing that William Carlson may have violated ORS 244.040(1) and 244.120(2) and that the Commission should investigate accordingly. Roll call was taken as follows: Lindsay, aye; Edwards, aye; Thompson, aye; McAuley, aye; Fiskum, aye; Hollister, aye; Mason, aye. Motion passed 7 – 0.

AGENDA ITEM 40, 21-229EDG, Robert Chandler, Road Commissioner, Panther Creek Road District. Myers summarized the case. Chandler did not address the Commission. The Commission discussed the case. Fiskum moved that the Commission find that there is a substantial, objective basis for believing that Robert Chandler may have violated ORS 244.040(1) and 244.120(2) and that the Commission should investigate accordingly. Roll call was taken as follows: Lindsay, aye; Edwards, aye; Thompson, aye; McAuley, aye; Fiskum, aye; Hollister, aye; Mason, aye. Motion passed 7 – 0.

Commissioner Robert Johnson joined the meeting at 10:14 a.m.

Commission recessed at 10:17 a.m. and reconvened into executive session at 10:25 a.m.

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AGENDA ITEM 41, 21-232EDG, Peggy Sue Tucker, former Mayor, City of Antelope. Myers summarized the case. Tucker did not address the Commission. The Commission briefly discussed the case. Fiskum moved that the Commission find that there is a substantial, objective basis for believing that Peggy Sue Tucker may have violated ORS 244.040(1) and 244.120(2) and that the Commission should investigate accordingly. Roll call was taken as follows: Lindsay, aye; Edwards, aye; Thompson, aye; McAuley, aye; Johnson, aye; Fiskum, aye; Hollister, aye; Mason, aye. Motion passed 8 – 0.

Own Motion Preliminary Reviews

(File 4)

AGENDA ITEM 42, Possible Own-Motion preliminary review re John Audley, Lobbyist. Myers summarized the matter. Audley addressed the Commission virtually. The Commission discussed the Own Motion. Fiskum moved that the Commission conduct a preliminary review to determine if there is cause to investigate whether John Audley has violated ORS 171.740. Roll call was taken as follows: Lindsay, aye; Edwards, aye; Thompson, aye; McAuley, aye; Johnson, aye; Fiskum, aye; Hollister, aye; Mason, aye. Motion passed 8 – 0.

The Commission reconvened into regular session at 10:40 a.m.

Lobbyist Penalty Correspondence

(File 5)

AGENDA ITEM 21, Paula Leslie, Q1 2020 \$10; Q3 2021 \$40. Recommendation: Q1 2020 Letter of Education; Q3 2021, \$40. Bersin summarized the matter. The Commission discussed the matter and Leslie's email. Bersin clarified the recommendation. Fiskum moved that the Commission issue a Letter of Education as sanction for both Q1 2020 and Q3 2021 late filing penalties. Roll call was taken as follows: Lindsay, aye; Edwards, aye; Thompson, aye; McAuley, aye; Johnson, aye; Fiskum, aye; Hollister, aye; Mason, aye. Motion passed 8 – 0.

AGENDA ITEM 22, Sara Mickelson, Q2 2020 \$50; Q3 2020 \$10; Q1 2021 \$10; Q2 2021 \$5,000; Q3 2021 \$1,000. Recommendation: Q2 2020 Letter of Education; Q3 2020 \$10; Q1 2021 \$10; Q2 2021 \$1,500; Q3 2021 \$400. The Commission discussed the penalty recommendation and Mickelson's email. Hollister moved that the Commission issue a Letter of Education as sanction for Q2 and Q3 2020; and \$500 for Q1, Q2, and Q3 2021. Roll call was taken as follows: Lindsay, aye; Edwards, aye; Thompson, aye; McAuley, aye; Johnson, aye; Fiskum, aye; Hollister, aye; Mason, aye. Motion passed 8 – 0.

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STIPULATED FINAL ORDERS

AGENDA ITEM 24, 21-127ELC, John Gambee, City Councilor, City of Junction City. Myers summarized the case. Gambee was present telephonically but 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. Roll call was taken as follows: Lindsay, aye; Edwards, aye; Thompson, aye; McAuley, aye; Johnson, aye; Fiskum, aye; Hollister, aye; Mason, aye. Motion passed 8 – 0.

AGENDA ITEM 25, 21-075XLC, John Weddle, Member

AGENDA ITEM 26, 21-076XLC, Susan Hardy, Member

AGENDA ITEM 27, 21-077XLC, Tami Edmunds, Member

AGENDA ITEM 28, 21-078XLC, Kevin Martin, Member

AGENDA ITEM 29, 21-079XLC, Mikal McPherson, Member

Board of Directors, Lane County School District #76. Myers summarized the cases. The respondents did not address the Commission. Commission discussed the cases.

Item 25, 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. Roll call was taken as follows: Lindsay, aye; Edwards, aye; Thompson, aye; McAuley, aye; Johnson, aye; Fiskum, aye; Hollister, aye; Mason, aye. Motion passed 8 – 0.

Item 26, 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. Roll call was taken as follows: Lindsay, aye; Edwards, aye; Thompson, aye; McAuley, aye; Johnson, aye; Fiskum, aye; Hollister, aye; Mason, aye. Motion passed 8 – 0.

Item 27, 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. Roll call was taken as follows: Lindsay, aye; Edwards, aye; Thompson, aye; McAuley, aye; Johnson, aye; Fiskum, aye; Hollister, aye; Mason, aye. Motion passed 8 – 0.

Item 28, 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. Roll call was taken as follows: Lindsay, aye; Edwards, aye; Thompson, aye; McAuley, aye; Johnson, aye; Fiskum, aye; Hollister, aye; Mason, aye. Motion passed 8 – 0.

Item 29, 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. Roll call was taken as follows: Lindsay, aye; Edwards, aye; Thompson, aye; McAuley, aye; Johnson, aye; Fiskum, aye; Hollister, aye; Mason, aye. Motion passed 8 – 0.

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Commissioner Hollister was excused from 11:15 – 11:20 a.m.

AGENDA ITEM 30, 21-111XLC, John Parker, Member
AGENDA ITEM 31, 21-114XLC, Mike Baker, Member
AGENDA ITEM 32, 21-116XLC, Lonnie Rainville, Member
Board of Directors, Umpqua Public Transportation District.

Johnson declared a former professional relationship with Baker. McAuley declared a former professional relationship with Rainville. The Commission discussed conflicts of interest. Myers summarized the cases. Bersin and Counsel Nasbe commented on Executive Session statutes and conflicts of interest. The Commission discussed the cases. Respondents did not address the Commission.

Item 30, 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. Roll call was taken as follows: Lindsay, aye; Edwards, aye; Thompson, aye; McAuley, aye; Johnson, aye; Fiskum, aye; Mason, aye. Motion passed 7 – 0.

Item 31, 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. Roll call was taken as follows: Lindsay, aye; Edwards, aye; Thompson, aye; McAuley, aye; Johnson, abstained; Fiskum, aye; Mason, aye. Motion passed 6 – 0 with one abstention.

Item 32, 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. Roll call was taken as follows: Lindsay, aye; Edwards, aye; Thompson, aye; McAuley, abstained; Johnson, aye; Fiskum, aye; Mason, aye. Motion passed 6 – 0 with one abstention.

AGENDA ITEM 33, 21-131XSM, Eric Aguinaga, Member, Board of Directors, Linn County School District No. 8J. Myers summarized the case. Aguinaga did not address the Commission. The Commission discussed the matter. 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. Roll call was taken as follows: Lindsay, aye; Edwards, aye; Thompson, aye; McAuley, aye; Johnson, aye; Fiskum, aye; Hollister, aye; Mason, aye. Motion passed 8 – 0.

DEFAULT FINAL ORDERS

None.

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REPORTS OF INVESTIGATIONS

None.

ADVISORY OPINIONS

None.

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)

None.

Other Correspondence

(non-action, informational only items)

None.

MISCELLANEOUS ITEMS

AGENDA ITEM 34, Administrative Rules. Myers summarized the process and updates to the Oregon Administrative Rules (OAR). Bersin commented on the revisions. The Commission discussed the revisions and suggested removal of the phrase “Elected Official” from the penalty matrix. Fiskum moved for the approval and adoption of the OAR as presented with the exception to remove “Elected Official” from Table A of the penalty matrix. Nasbe commented on the OAR. Roll call was taken as follows: Lindsay, aye; Edwards, aye; Thompson, aye; McAuley, aye; Johnson, aye; Fiskum, aye; Hollister, aye; Mason, aye. Motion passed 8 – 0.

Commissioner Johnson was dismissed at 12:00 p.m. from the remainder of the meeting.

AGENDA ITEM 35, Trainers’ Report. Walker addressed the Commission and summarized the past, current, and future training activities.

(File 6)

Fiskum and Commission commented on the Statement of Economic Interest filings.

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The Commission convened into executive session at 12:07 p.m. to conduct the annual Executive Director performance review pursuant to ORS 192.660(2)(i).

OTHER ITEMS

(File 7)

AGENDA ITEM 43, Executive Director Performance Review.

The Commission reconvened into regular session at 12:30 p.m.

(File 8)

AGENDA ITEM 36, Executive Director's Report.

Bersin reviewed the following:

- 2019 – 2021 Budget is now closed out.
- 2021 – 2023 Biennial budget has a surplus. Personal Service is projected over budget but should be back within budget due to employee turnover.
- Statement of Economic Interest filing process explained to the new commissioners.
- Three new Ethics Commissioners confirmed by the Senate: Alicia McAuley, Jonathan Thompson, and Robert Johnson.
- Final vacancy on the OGEc will be brought forward by the House Republicans in February session.
- Torrey Sims, OGEcs new investigator (CS2) was introduced.
- Susan Myers received a direct appointment to the CS3 position, Education and Compliance Specialist.
- Recruitment for Investigator 3 position will begin in January.
- Some Staff continue to telework.
- Kathy and David were commended for successful follow-up and assistance with EFS filers.
- Advised Commissioners regarding concerns over Public Meetings law. OGEc has been approached to begin discussion to include this area of law within its jurisdiction. This could potentially double the size of the OGEc staff.
- Commission advised of the Statewide Compensation Study (TOMP) for executive directors and managers, with potential of increased salary range and step increase in May 2022 for Bersin.
- Bersin informed the Commission that his trip to South Africa has been rescheduled for July 2022, which means that he will miss a Commission meeting for the first time. His duties will be delegated to Myers for that meeting.

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AGENDA ITEM 37, Election of Chair and Vice-Chair for 2022.

Mason commented on his tenure as Chair in 2021 and nominated David Fiskum for Chair in 2022. Roll call was taken as follows: Lindsay, aye; Edwards, aye; Thompson, aye; McAuley, aye; Fiskum, aye; Hollister, aye; Mason, aye. Motion passed 7 – 0.

Lindsay nominated Hollister for Vice-Chair in 2022. Roll call was taken as follows: Lindsay, aye; Edwards, aye; Thompson, aye; McAuley, aye; Fiskum, aye; Hollister, aye; Mason, aye. Motion passed 7 – 0.

Chair Mason adjourned the meeting at 12:50 p.m.

The next scheduled meeting date of the Oregon Government Ethics Commission is set for Friday, January 14, 2022, 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.

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