

MINUTES OF THE PUBLIC HEARING AND REGULAR MEETING  
of the  
ETHICS COMMISSION  
STATE OF OKLAHOMA  
held  
JANUARY 22, 2010

Call to Order

Upon notice with agenda being properly posted at the principal office at least twenty-four (24) hours previously and notice being filed at least ten (10) days in advance with the Office of the Secretary of State, a public hearing and regular meeting of the Ethics Commission of the State of Oklahoma ["Commission"] was called to order on Friday, January 22, 2010, at 11:00 a.m. Chair Jo Pettigrew ["Pettigrew"] presided over the meeting which was held at the State Capitol Building, Room 432A, 2300 North Lincoln Boulevard, Oklahoma City, Oklahoma.

Determination  
of Quorum

Roll was called to determine the existence of a quorum for the transaction of business. Commissioners answering present were: Pettigrew, Bob McKinney ["McKinney"], Karen Long ["Long"], Jim Loy ["Loy"] and John Raley ["Raley"]. A quorum of qualified members was found to exist, and the business of the meeting went forward.

Commission staff members present were: Marilyn Hughes ["Hughes"], Executive Director; Rebecca Adams ["Adams"], General Counsel; Patti Bryant ["Bryant"], Principal Assistant; and R. Darey Roberts, Investigator. Observing all or part of the meeting were: Lee Slater ["Slater"], Slater & Denny; John Wood ["Wood"], Lynn Howell ["Howell"], Lois Hilbert and Dick Hilbert, Common Cause Oklahoma; The Honorable Lloyd Fields ["Fields"], Labor Commissioner; the Honorable Andrew Rice, State Senator; Amy Alden ["Alden"], attorney, Rick Farmer and Arnella Karges, House Staff; Caroline Dennis, Senate staff; H.J. Reed ["Reed"], lobbyist, ConocoPhillips; Robert McCampbell ["McCampbell"], attorney, Crowe & Dunlevy; The Honorable Mike Reynolds, Representative; Jeremy Harris, citizen; Glenn Hightower, citizen; Arnold Hamilton, *The Observer*, Michael McNutt, *The Oklahoman*, Shawn Murphy, *Associated Press*, Jacqueline Scott, *KTOK*; and Bryan Smith, *eCapitol News*.

Public Comment on or  
Request for Constitutional  
Rule Amendments

The first item on the agenda was a public hearing consisting of taking testimony and comments, both oral and written, on amendments and/or modifications to the Constitutional Ethics Rules ["Rules"], Section

257:1-1-1 et seq. of the Rules of the Ethics Commission, 74 O.S. Supp. 2009, Ch. 62. App., with respect to new items introduced for discussion or those listed in the published document titled: *Rules of the Ethics Commission, Proposed Amendments and/or Drafts for 2010 Legislative Session for consideration at the January 22, 2010 Regular Meeting of the Ethics Commission.*

Speakers

McC Campbell, Slater, Howell and Wood spoke on proposed Rule Amendment #20. McC Campbell saw no reason not to adopt the amendment as presented by Hughes with amendments. Slater recommended calling a special meeting the next week to address the amendment in order to give time to analyze the United States Supreme Court case of *Citizens United v. Federal Election Commission* and to discover other provisions that might need changing. Howell supported Slater's request for delay and especially requested a review of the disclosure provisions. Wood preferred the Commission delay its decision further and proposed the possibility of a state constitutional amendment.

Reynolds urged the Commission to call a special meeting and that proposed Rule Amendment #19 be adopted. Reed spoke against proposed Rule Amendment #19 arguing that it would be the only Rule provision subject to a 30-day requirement rather than by quarter or 90-day period.

Slater and Howell spoke in favor of adoption of proposed Rule Amendment #18 requiring mandatory electronic filing by lobbyists.

Action on Rule  
Amendments

The next item on the agenda was action on Rule amendments.

Pettigrew announced she would not move to adopt proposed Rule Amendment #1. No action was taken.

Pettigrew moved adoption of Rule Amendment #2. McKinney seconded the motion. Motion passed unanimously.

Raley withdrew proposed Rule Amendment #3 but asked that it be added as a procedure to the agenda of the next regular meeting.

Raley moved adoption of proposed Rule Amendment #4. Long seconded the motion. Motion passed unanimously.

No action was taken on proposed Rule Amendment #5 since it passed unanimously on June 19, 2009.

Pettigrew moved adoption of proposed Rule Amendment #6. McKinney seconded the motion. Motion passed unanimously.

Raley moved adoption of proposed Rule Amendment #7. Motion died for lack of a second.

Proposed Rule Amendment #8 was not considered by mutual agreement pending further study.

Raley moved adoption of proposed Rule Amendment #9. Motion died for lack of a second.

Raley moved adoption of proposed Rule Amendment #10 subject to the following: that no change be made to Section 257:10-1-20(a)(1)(C) and the addition of new Paragraph (D), to read: "for tickets for the Speaker's Ball"; and that no change be made to Section 257:10-1-20(a)(3)(G) and the addition of new Paragraph (J), to read: "be used for tickets for the Speaker's Ball". Pettigrew seconded the motion. Motion passed unanimously.

Raley moved adoption of proposed Rule Amendment #11, amended to a \$500 disclosure threshold [originally \$200]. Loy seconded the motion. Motion failed two to three with Long, McKinney and Pettigrew voting "no".

Proposed Rule Amendment #12 was not considered for lack of a sponsor.

Pettigrew moved adoption of Rule Amendment #13. Long seconded the motion. Motion passed unanimously.

Pettigrew moved adoption of Rule Amendment #14. McKinney seconded the motion. Motion passed unanimously.

Proposed Rule Amendment #15 was not considered for lack of a sponsor.

McKinney moved adoption of Rule Amendment #16. Loy seconded the motion. Raley asked for amendments to the last paragraph in Section 257:10-1-2(c), adding "separate" after "All three" and before "requests", and in Section 257:10-1-14(a)(20), adding "separate" after "the three" and before "good faith". Both McKinney and Loy accepted the amendments. Motion passed unanimously.

Proposed Rule Amendment #17 was not considered as it had been included in proposed Rule Amendment #13.

Pettigrew moved adoption of proposed Rule Amendment #18 adding an effective date of January 1, 2011. McKinney seconded the motion. Motion passed unanimously.

Loy moved adoption of proposed Rule Amendment #19. Raley seconded the motion. Motion passed unanimously.

Consideration of proposed Rule Amendment #20 was deferred to a special meeting to be called for Friday, January 29, 2010.

Loy moved:

- that the Commission adopt as the agency's official promulgated rules for year 2010 all language, rules and amendments to the rules passed in this meeting, and that they be added to the text, and be recognized as part of the official Constitutional Ethics Rules [Sections 257:1-1-1 et seq. of the Rules of the Ethics Commission, 74 O.S. Supp. 2009, Ch. 62, App.];
- that the Commission authorize the Chair, or the Chair's designee, to make typographical or non-substantive modifications, as well as adopt language to carry out the Commission's intentions, with respect to the entire text of today's promulgated rules, as may be necessary;
- that the Commission authorize the Chair, staff, or the Chair's designee, to approve the final draft of the promulgated rules prepared by staff in accordance with today's vote; and
- that the Commission direct the Chair, staff, or Chair's designee to present the approved Commission promulgated rules to the Governor and both Houses of the Legislature on the second day of the upcoming legislative session, in accordance with the requirements of Article 29 of the Oklahoma Constitution – and, as a courtesy, to the remaining appointing authorities.

Raley seconded the motion. Motion passed unanimously.

Requesting Legislative  
Action on Raising  
Lobbyist Registration Fees  
and/or Non-candidate  
Committee Registration  
Fees

The next item of business was consideration of whether to request legislative action on raising lobbyist registration fees and/or non-candidate committee registration fees. By general consent, the Commission deferred this item to the agenda for the special meeting.

Approval of Minutes

The next item of business was approval of the minutes. McKinney moved adoption of both the regular session minutes and executive session minutes for the December 18 meeting. Raley seconded the motion. Roll was called for purposes of the vote. The motion passed unanimously.

Ratification of  
Expenditures

The next item of business was ratification of expenditures. McKinney moved to ratify agency expenditures, as disclosed, for the period of December 1, 2009 through and including December 31, 2009. Long seconded the motion. Roll was called for purposes of the vote. The motion passed unanimously.

FY-2011 Budget Request

The next item of business was the FY-2011 Budget Request. No action was taken.

Administrative Report

The next item of business was the administrative report. No action was taken.

Public Hearing on Request  
for Ethics Interpretation  
EI-2009-003

The next item of business was a public hearing on Request for Ethics Interpretation EI-2009-003. Slater and Alden objected to legislators being included in the conclusions, arguing that the question asked was limited to a state officer who is an elected official and the head of an agency.

Closed/Executive Session  
for Consideration of the  
Confidential Matters Set  
Forth on the Agenda

The next item of business was a proposed closed/executive session, authorized and required by Title 25 O.S. 2001, Section 307(B)(1), (4) and (7); Constitutional Ethics Rules [supra], Sections 257:1-1-6(h), (i), (j), (k) and (l); 257:30-1-2, 30-1-3, 30-1-4, 30-1-5 and 30-1-6; OAR 258:25-1-4.

The General Counsel stated the items set forth at this place on the agenda were made confidential by law. She further stated her advice that disclosure of the items listed for the executive session would seriously impair the ability of the Commission to process claims or conduct pending investigations, litigation or proceedings in the public interest. She therefore advised that the Commission go into closed session for the limited purpose of these listed matters.

McKinney moved the Commission go into closed session. Raley seconded the motion. Roll was called for the vote. The motion passed unanimously.

The Chair declared that, once the observers left the room, the meeting would stand in closed/executive session for the limited purposes of considering the cited matters. After the room was emptied, except for the Commissioners and staff, a "closed session" sign was posted on the door, and the session began.

Open Session/Action on  
Same

When completed, the "closed session" sign was removed, and observers returned to the room. Raley moved that the Commission go back into open session. McKinney seconded the motion. Roll was called for the vote. The motion passed unanimously.

Action on Ethics  
Interpretation EI-2009-003  
and Informations

Loy moved to issue Ethics Interpretation EI-2009-003 with changes as discussed in executive session; that Information IU-2009-003 be continued; that IV-2009-008 be dismissed; and that IV-2009-009 be continued. Long seconded the motion. Roll was called for the vote. The motion passed unanimously.

New Business

There was no new business.

January Regular Meeting

The Chair announced a special meeting would be called for Friday, January 29.

Adjournment

Loy moved to adjourn. Raley seconded the motion. Roll was called for purposes of the vote. The motion passed unanimously.

  
MARILYN HUGHES, Executive Director

Approved on Behalf of the Commission:

  
JO PETTIGREW, Chair

PB/pb