

PROPOSED DRAFT/NOT APPROVED: SUBJECT TO REVISION

MINUTES OF REGULAR MEETING
Of The
ETHICS COMMISSION
STATE OF OKLAHOMA
Held
JULY 11, 2008

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, July 11, 2008, at 10:00 o'clock a.m. Chairman Don Bingham ["Bingham"] presided over the meeting which was held in Room 511A State Capitol Building, 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: Bingham, Jim Loy ["Loy"], John Raley ["Raley"] and Jo Pettigrew ["Pettigrew"]. 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, Patricia Bryant, Principal Assistant, Charles Knight, Information Systems Network Administrator and R. Darey Roberts, Investigator. Observing all or part of the meeting were: Angel Riggs, *Tulsa World*; Jayne Depanfilis, David Glover and Mark Burkett, Common Cause Oklahoma; Drew Downing, attorney; Representative Ken Miller; Representative Mike Reynolds; Lee Slater, attorney; Mary Francis, citizen; Cheryl Purvis, Senate staff; Jason Doyle, *OETA*; Michael McNutt, *Daily Oklahoman*; Bryan Smith, *E Capitol* and Scott Cooper, *Oklahoma Gazette*.

Public Comment On
Or Request For
Constitutional Rule
Amendments

Next was public hearing, consisting of taking testimony and comments, as well as consideration of and discussion, on promulgation of 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. 2007, ch. 61. App., and/or adopting resolution(s) to request legislative action with respect to items listed in the published document titled: *Rules of the Ethics Commission, Proposed*

Amendments and/or Drafts for 2009 Legislative Session for consideration at the July 11, 2008 Regular Meeting of the Ethics Commission, incorporated by reference in this agenda as fully set forth in the document.

The Chairman said this is where we invite anyone, private citizens, elected officials, lobbyists, anyone who wants to comment on proposed new ethics rules. Wants to propose amendments to existing rules. Wants to suggest the creation of a new rule. This is to me the most valuable part of our rulemaking process which is hearing from people who want to tell us what they think about either the existing rules and how they ought to be changed or the creation of new rules that we don't have. So let me just throw it open for comments or questions from anyone who is present. We also encourage you to submit written inquiries, written submissions. You can be an advocate of something or you can just be making an inquiry. If you want to put it in writing, we always welcome that and will always respond. But we invite you too, to stand up and identify yourself and say whatever you want to say. Now, like I say, any amendments that you feel ought to be made to existing ethics rules or any new rules that you feel should be adopted by the Commission. Any public discussion or comments on new ones.

Representative Mike Reynolds

The Chairman recognized Representative Mike Reynolds ["Reynolds"]. Reynolds said I am Representative Mike Reynolds and I am here today just on behalf of myself. Not in any capacity as a legislator. I wanted to just very briefly touch on rule 1 and rule 2 and suggest some things that I think might help. I have examined campaign contribution checks that I've received and I have failed to find one check that doesn't have an address on it. So, I realize many times people have put "information requested" but I would suggest that at a very minimum, someone should have an address from any contribution that they receive. And certainly it would be probably very easy for them to make a copy of that check if they didn't have a contribution form. Just a little bit of clarification on that and I'll leave it at that. The second thing which is more significant, and I have visited with the Commission about this on some other occasions, but I would hope that you would be able to do an analysis particularly after this campaign cycle of the number of expenditures. I think rule 2 is an outstanding rule, a necessary rule, but the number of expenditures that are in excess of certain limits, maybe \$50, \$250, \$500. As I recall, what I checked two years ago, you were able to cover about 90% of the money with about 10% of the transactions. And it can become very burdensome to try to enter stuff for as little as \$50. So I would hope that the Commission might be able to get some

spread sheet and evaluate it and say you know what, we can get 90% of the money that is spent by just requiring a detailed of information above \$500 or \$250 or something slightly higher than the \$50 threshold. And the point being, hopefully you can do a numerical analysis of that, that could give you some more input into whether that might be feasible.

The Chairman said Representative Reynolds, as you know, these issues are so important and to me they are complicated because, and we've had this discussion before and I won't go back over the entire prior ground that we've plowed but, on the one hand, yes, we want to make available to everyone the really, the maximum amount of significant information about finances of campaigns. On the other hand, we balance that against the need to not make running for office so burdensome, so technical and so expensive that we discourage good people from running for office or staying in office because of again the administrative burden or the expense of complying with our rules. So, we are trying to strike a balance there. We appreciate your comments, as always, and anyone else who wants to give us input because we are trying to strike that right balance. Again, I don't want to, and we have not passed rules and we have not enforced rules in the spirit of gotcha. We've found a violation that somebody didn't turn in all the cards and we've talked before about the difficulty of the burden on a candidate of having to collect cards from people who gave their money in good faith and we want to encourage folks to get involved in the political process and donate their money, if they think that's appropriate. And we don't want to create an administrative nightmare where there's a gotcha every time somebody just can't get in the paperwork that is needed to get in. And we try to balance that against the legitimate need to know who is contributing, who is paying and financing campaigns. And we think that these amendments strike that correct balance, but we're again, this is to me a complicated area because it involves these competing interests. And we appreciate your input. Reynolds said thank you.

The Chairman said does anyone else either on these amendments or any of the other proposed amendments want to make comments or have any comments at this time.

Mary Francis

The Chairman recognized Mary Francis ["Francis"]. Francis said I come as a private citizen from Norman, Oklahoma, 850C Cardinal Creek Condos. And I have recently moved back to Norman. I am concerned about adequate funding for this Commission. Twenty years ago when we were wrestling with this new Article, at that time Common Cause and I'm not speaking for Common Cause because I am no longer

on the board. But at that time, I was, and we worked with Andrew Tevington on the language of this Article. And one of the things he brought was the suggestion that we tie the budget to something that couldn't be messed with. A percentage of say the judiciaries budget or a percentage of something that would guarantee adequate funding.

The Chairman said Ms. Francis, may I do this. And I apologize to you. Because the law requires us to stick to our agenda, we have on our agenda item 9 which is consideration about the funding of the Commission. May I ask you to defer your comments. I promise I'll call on you first when we get to that agenda item because the law just doesn't allow us to take, we can take them out of order if we decide that's what we want to do. But what I would really like to do is to get to that item and I think we will get there pretty quickly. So if you would, I apologize to you because I'm really interested in what you have to say. But if you wouldn't mind, we're going to get there in a few minutes. Francis said the process is important. I appreciate that. The Chairman said you will be the first speaker on that issue. Thank you for understanding.

The Chairman said are there any other comments on just the proposed amendments, either the ones that were addressed earlier, 1 or 2, or any of the others that are in the synopsis that has been made available to the public.

Drew Downing

The Chairman recognized Drew Downing ["Downing"]. Downing said I am a lawyer with the firm Rhodes Heironymus in Tulsa. And I want to address the Commission this morning with regards to one of the amendments on the agenda today which is rule amendment 4. I'll keep my comments brief, especially given the fact that our petition for this rule change is reproduced in its entirety in the material. I know everyone has had a chance to review that. There is a very important difference between federal law and Oklahoma law as it exists with regards to a political action committee's ability to solicit funds. As you know, both Oklahoma law and federal law allow a political action committee to solicit funds from a restricted, defined class, typically you can refer to that as the executive class or the administrative class. But the point being not from its regular work force. Federal law has a distinction in it that Oklahoma is silent on. That distinction in federal law allows a twice yearly solicitation of employees that fall outside of the restrictive class. This exception regarding these solicitations is clearly designed to expand the political process to all of the corporation's employees who want to be voluntarily involved in their employer's political action committee. Oklahoma law and the federal counterpart already have very

stringent protections and guarantees against a corporation using coercion or undue influence in its solicitation of contributions. Under the proposed amendment which is a mirror of the federal rule, twice yearly solicitations can only be made by mail to the residents of the employee. And it has to be designed to make sure that those not making a contribution or those making a contribution of \$50 or less remain anonymous. Thereby avoiding the undue influence that the corporation might try and put on its employees. And I know the Commission is familiar with these restrictions of soliciting funds from outside of the restricted class and employers are extraordinarily careful to not violate those provisions. That is primarily why I am here today because I had two separate clients inquire on whether or not they were allowed to simply follow the federal rule because Oklahoma rule was silent. These are Oklahoma political action committees that are organized under this state's laws. And of course, that's always poor advice to tell them just to go ahead and follow some other rule and ask questions later. So that's why I am here to try and urge the Commission to adopt proposed rule amendment 4 to bring it in line with the federal rules regarding a political action committee's solicitation of funds. Probably the most important thing is the recognition that I believe we live in a new era with regards to political involvement with regards to individuals in our society, particularly young individuals, young employees of a corporation who are constantly looking for ways to get involved in the political process. The clients that I'm representing their employees know that their corporation has a political action committee. They want to be involved. They want to receive materials and they want to be involved in their employer's political action committee's actions. So, I would urge the Commission to consider rule amendment 4 favorably.

The Chairman said this, as I recall, is kind of our first time to consider this publicly. Did we talk about it at a prior meeting? Adams said you are correct. The Chairman said this is our first go around on this and it's an important issue. We are not bound to follow, obviously federal election policy, but in some instances we think it would be a bad idea for the State of Oklahoma to do that. But we are always open to looking at why certain federal provisions were passed and if those are applicable to Oklahoma and they make sense for Oklahoma, sure we want to and we will give it serious consideration. Does this rule amendment currently have a sponsor? Hughes said no.

The Chairman said Ok, so what we have here, ladies and gentlemen, is we have a request by a private party for a rule amendment. It's currently just called rule amendment 4 because we just number them as we get them. And it is seeking one of the Commission members to sponsor it.

And if it finds a sponsor, if one of the Commission members, if one of us decides to formally sponsor it, then that means it will guaranteed a vote up or down to become an Ethics Commission constitutional rule. Being this is the first meeting, I would just encourage anybody who has an interest in this topic or in this proposed rule to think about it, talk with us about it. You can call us, you can give us a written submission. You can show up any of our meetings. Especially with something that is not an amendment of an existing rule, but is a brand issue or a brand new subject, we're not just going to have one meeting where we invite public comment. We try and maximize the number of meetings so that we get the maximum amount of input. Drew we appreciate your being here and your comments. Tell me because I'm not that familiar with the federal election law, does the federal counterpart if you will of what you've proposed here, does it set a, is there any lid on the number of employees that this applies to in terms of a private sector employer who either has form or participates in the formation of a PAC.

Downing said I don't believe it does, Don. But I wouldn't want to tell you one way or the other without specifically looking at that. I don't recall seeing if those types of limitations were present. The Chairman said is it accurate that our current rules do not address this issue with regard to either private sector employers or unions? Hughes said it prohibits solicitation of any employees beneath the administrative level. Adams said and that was done purposely with intent. The Chairman said so our current prohibition is that a employer PAC may not solicit contributions from employees below a certain designated level. Adams said they may voluntarily contribute, but they may not be solicited. The Chairman said do we have similar prohibition or limitation on the ability of unions to solicit union members? Downing said Mr. Chairman I would add that the current prohibition that Ms. Adams just spoke about is exactly the same in federal rules. They have the same prohibitions. It is simply the fact that federal law takes it one step further and provides this twice yearly mechanism outside of that restrictive class and Oklahoma law has no such distinction. The Chairman said so limited exemptions are limited exceptions to that general prohibition in the federal law. No such exemptions or exceptions in the state law. And how does federal law treat union solicitations of union members? Downing said I think that, again I don't have the federal rule in front of me, but if I remember correctly they treat, I think unions are included in their handling with regards to this solicitation. Again, I can supplement that if the Commission has some specific questions in that regard. And I'm always leery of answering things off the cuff. Hughes said the federal solicitation of unions has to do with voluntary and involuntary funds.

They can voluntarily give toward a PAC, but they can't have automatically their dues reduced by contributions to PACs. Adams said by federal case law. The Chairman said that's helpful to know. But specifically, can unions orally, by letter, by some other communications solicit. Hughes said I believe they are a part of this exception where they can do it twice yearly. The Chairman said under the federal? Hughes said yes. Downing said I believe that is correct. The Chairman said Lee do you have a comment?

Lee Slater ["Slater"] was recognized and said I was just going to say that as the Commission considers this rule or proposed rule change, that federal law has a very elaborate and detailed procedure that you have to comply with to make those solicitations. Mr. Downing's proposal is a kind of generic proposal aimed at accomplishing the same end. And that is the anonymity of the small contributor. I would just encourage the Commission as you consider this proposed amendment to not do what the Federal Election Commission has done and not make such a detailed procedure because I think it becomes almost an I dotting T crossing process that's very difficult for an employer to comply with without a great deal of time and expense. And perhaps Ms. Hughes and Ms. Adams would either support or refute that with me. The federal procedure is very detailed about how you set up the separate account and a special agent to receive the funds and it's just a nightmare and I would hope that this Commission would not follow that pattern. If you do decide to follow this principle that you would leave it up to the employers to make the determination on how to maintain the anonymity of the contributors. The Chairman said I'd like staff to think about this too. This is new. This brand new. I'd like the public to think about it. If this issue does need to be addressed, maybe we need a new rule on it. Maybe we need to follow the federal counterpart or maybe we need to create our own version or again we may just want to leave our existent provisions alone. But I'd like a report from staff on your thoughts on this too. And again, we're going to have more public discussions at our regular meetings.

Raley was recognized and said Mr. Chairman, may I ask Mr. Downing a question. Mr. Downing, with reference to the provisions in the federal statute and I'll ask Mr. Slater the same question. Incidentally, before I ask the question, my name is John Raley and I practice law in Ponca City. And I want you to bring greetings to two of your senior partners, Chris Rhodes and Bert Jones and I were OU law school classmates. And when you bring greetings, you don't do it during their afternoon nap time. Now, having said that, I want to be sure I understand the import of the federal rule with what we've got now. The federal rule

that you are proposing that we accept and adopt would permit bi-annual solicitation. Are we talking only of employees or are we talking about stockholders and corporate officers and so forth or are they excluded. I want to be sure of that distinction. Downing said the Oklahoma rule as it exists right now allows the solicitation by the PAC of stockholders and those people in the restrictive class who are at the executive level, administrative personnel and those types of people. And so I suppose by definition, they are not in the class that is restricted from solicitation right now by the PAC. So I presume they would be included in whatever process the political action committee was to entertain. Raley said one follow up question, if I may, Mr. Chairman. Are you aware or do you have any idea of the rationale that went into enacting this federal law which permits bi-annual solicitation. Downing said that is a phenomenal question and I wish I had a good answer. I have gone back. This law in the federal rules has been on the books for twenty years. I went back to try to find the legislative history behind that enactment. There was none. And I tried to find a federal case that interpreted this particular provision and came up empty in that regard as well. So, unfortunately the Commission is left with nothing but my speculation on what that twice yearly solicitation was designed to do as an exception to the prohibition against soliciting your general work force. Raley said thank you Mr. Downing. Thank you Mr. Chairman.

The Chairman asked if there were any further comments, inquiries or discussion on not only the rules that have been mentioned, but anything else.

David Glover

David Glover ["Glover"] was recognized. Glover said I am a private citizen and I just wanted to say on general comments on rules and modifications coming up now and in the future, the citizens in general are somewhat removed from the process because it is complicated. But they greatly appreciate the sort of action, effort and time that you guys put in to sort of being the watchdog for them. Because they obviously can't be as involved. Recently, I was involved with some things out here with the Legislature to find out more and everything that you can do to create more openness and transparency, reduce the number of secrets, is good for the citizen. Even though they may not show up, I promise you they appreciate it because they don't have the time and ability to do it themselves. So in a way you guys are acting for the citizens and it is greatly appreciated.

The Chairman said thank you. I appreciate your comments.

Are there any other discussions, inquiries, comments about proposed amendments to existing rules or creation of new Commission rules. We won't take any action today. We'll try to use all our regular meetings to invite your comments and questions about proposed rules and it's not too late if you feel a new rule should be adopted that isn't already under consideration. Put it in writing. We'll talk about it. Invite public comment. You may get a sponsor by one of the members of the Commission. If you do, there will be an up or down vote on the rules that you think ought to be adopted.

Approval Of Minutes

Next was consideration of whether to adopt the minutes [both open and closed sessions] of the public hearing and regular meeting held May 21, 2008.

The Chairman called for corrections or amendments to the proposed minutes. There were none.

Action followed, as the Chairman asked if he hears a motion that the minutes of both the open and closed sessions be approved. Pettigrew so moved the adoption of the minutes. Raley seconded the motion. Roll was called for purposes of the vote. The motion passed unanimously, with Loy abstaining because he was not present at the May 21 meeting.

Ratification Of Expenditures

The Chairman then called for consideration of agency expenditures for a period beginning May 1, 2008 through and including May 31, 2008 and June 1, 2008 through and including June 30, 2008.

The Chairman called for discussion on the agency expenditures. Loy moved that they be adopted. Raley seconded the motion. Roll was called for purposes of the vote. The motion passed unanimously.

Consideration And Discussion Of Request For Supplemental Appropriation For FY-2009

The next item on the agenda was consideration of and discussion on whether an emergency exists in Commission operations and funding and whether to request a supplemental appropriation in the amount of \$238,000 for the Commission's FY-2009 funding in order to meet the constitutional mandate for "...an annual appropriation by the Legislature sufficient to enable it to perform its duties..." under Article 29, Section 2(A) of the Oklahoma Constitution.

The Chairman said I very rudely interrupted our prior speaker on this topic and I really appreciate your patience and understanding with me on that. And now would you please let us know your thoughts on this

now and take your time and again, we appreciate your interest in coming over here to let us know what you think.

Mary Francis was recognized and said this ethics Article was begun back in 1988-89. I'm not sure exactly what year it was. And submitted to Governor Bellmon's Constitutional Revision Commission by Common Cause. I was Chair of that Constitutional Revision Committee of Common Cause and attended all of those hearings along with Mitch Beville and some other people. And we brought them a request that they create this Commission, this Ethics Commission. A new Article, Article 29, along with a couple of other Articles. And that was done. The lead person who wrote this Ethics Article was Andrew Tevington. He was one of seven on the writing committee. And he worked with us very closely. One of things that he suggested was that the budget for this commission be tied to something that couldn't mess with. Something that would ensure a budget, an adequate budget for this commission. I'm afraid that that was later taken off the table in deference to the idea that the Legislature ought to have the flexibility and leeway and the trust of the rest of us to do what was right for the commission and to provide adequate funding. It has been my experience and my observation over the years that they have not provided adequate funding for this commission. And I urge you to reconsider what Andrew Tevington, the governor's general counsel at the time, had proposed. That you make a new rule. I'm not sure exactly what the process would be but that we would change the, take it to the people, I suppose, and change the Article to require that your budget be tied to some percentage of some other budget. I think maybe a percentage of the judicial budget was suggested at the time. And while I'm on that subject of changes of the Article, I might mention that the other disappointment of mine was that this is only a five member commission. The proposal at the time was that it be a six member commission and that the judiciary have an equal number of appointees. Not just one. The other being appointed by the Chief Justice of the Court of Criminal Appeals. And those six so appointed would then select the seventh. Removing the seventh person a little further away from the political arena. I really like that idea. Still like it today. So those are my two suggestions and I commend the commission for your persistence in this issue of your funding and urge you to be dogged about it.

The Chairman said thank you very much for taking the time to come over and visit with us and for the thought obviously that you have put into this. And for your efforts back when. This gives us a chance to thank you and I wish the other folks were here who had something to do

with the creation of the constitutional amendment. We certainly owe them a debt of gratitude. I think the people do. It's not just a question of the commissioners appreciating it. It's a good amendment and we appreciate very much your citizen input. We hear from lots of parties and sometimes I think we don't maybe hear enough from private citizens and so we value anyone who wants to show up who isn't necessarily in the political arena or in government or affiliated with folks who have a stake, but just as private citizens who have thoughts and opinions about this. So thank you so much.

Let me say first of all though that I issued a press release recently that had an error in it and I really want to apologize to everybody concerned about it. I just didn't do my homework on it. It talked about the appropriations that were late in passage and enactment and I think we put the total at \$28,020,000 and I erroneously included in one of those appropriations to the Department of Commerce, or I didn't include a \$6,000,000 appropriation...Hughes said it showed up twice, one to Commerce and one to the county. The Chairman said right. And so again, we overstated the total amount of that by \$6,000,000, although we understated slightly the Oklahoma Historical Commission appropriation. In round numbers, these final appropriations that I addressed in my press release were over \$22,000,000 rather than \$28,000,000 in round numbers. And I apologize. We ask candidates and elected officials to give us accurate information and we expect them to and I apologize for not again doing my homework and putting out inaccurate information. That total that we gave duplicated that \$6,000,000 appropriation which went to the Department of Commerce. It was not a separate appropriation and it shouldn't have been shown that way. I really am sorry that we didn't get it right. And maybe there will be some more corrections. I'm trying to look at the accuracy of everything that we put out, but it went over my signature and I guarantee I approved it and I apologize to everyone for the error on that. So that figure was again in round numbers very close to \$22,000,000 instead of \$28,000,000. That's a big error. But I hope that everyone understands that we're going to try to do better next time on our accuracy before we put out a press release.

I would like to recognize Representative Ken Miller ["Miller"] who is Chair of the House Appropriations Committee. And again, we appreciate any elected official being here and thank you for coming and if you would like to make some comments, we would certainly like to hear them. Miller said actually I would. And first let me say many of you I haven't met yet and I just met Mr. Bingham this morning. But first let me tell you why I'm here. And I'm certainly not here because I enjoy

being here. I'm certainly not here because I was advised to be here. Quite the opposite. I was advised not to be here. And I'm certainly not here for political expediency or to end up on YouTube. But I am here because I believe that the message needs to get across where the Legislature is, where I am as the budget chairman on this particular issue. I very much regret the tone that this has taken. But we are where we are and I think it's part of my job to help move us from where we are. I had a friend of mine, a former politician who told me you really need to quit speaking out on the Ethics Commission funding. You're not going to win that issue. You're not going to win that battle with the public perception. You're a politician. You're an easy target. You just need to be quiet and let it go in one ear and out the other and just do what you want to do. Unfortunately for me my whole life, I usually say what I believe. And I do not believe that the Commission is currently underfunded. I have an open mind and I'm willing to listen, but you have got to make the case like every other government entity, agency, commission or branch. I've heard a lot of talk that it's a constitutionally created body and it is. But that is not necessarily unique. The ABLE Commission, the Wildlife Commission, the Judicial Branch, the Executive Branch, all of which are dependent on the Legislature for funding. That is our constitutional authority. And I can tell you that we and I take that very, very seriously. I have been frustrated. I am frustrated at the tone and the tactics that I feel have been coming forth. I believe it is counterproductive. And I think that we do much better, not just the Legislature and the Ethics Commission, but people do better when they communicate to try to get things done. Rather than trade barbs and trade press releases. Let me get back to why I do not share the opinion on not being funded adequately. The reason that I don't share that opinion is because I don't believe that that case has been made. I have suggested ways to make that case. If I really wanted to conspire with the Legislature to strangle the Ethics Commission so that they could not do their job, I certainly would not be here today recommending how you can make the case. What I suggest is that you show us the harm caused due to lack of funding. We need to know what tasks are not being accomplished. We need to know the backlog of investigations that are not being done. We need to know why you have to be the sole entity involved in an investigation. We need to know why it is not appropriate to share services with the Attorney General's office. Why is it harmful to the people of Oklahoma that you as the originator of malfeasance or fact finder, why is it harmful that that be turned over to the Attorney General's office at some point. I don't believe that we need duplication of services. I think we need to guard the taxpayer dollars. So we need to know why that that's harmful and right now we don't. We need to know why another investigator is needed.

From my vantage point, there are the same number of elected people today that there were when this commission was founded. And when we hear the problem with under staffing at the same time, the Legislature has dramatically reduced its staff because of technological advances and that's common place in the rest of the world. So we need to know why that is not consistent with the needs of the Ethics Commission. We need to know why more space is needed. If the space was sufficient in 1991, why is the space not sufficient now? The same people are working. Is it I've heard because of data that's in the way. That there are too many storage needs. We can take care of that. We can work together. There are ways to handle that. I worked with the Jim Thorpe Building, the Corporation Commission to take care of that problem for them and that's ongoing right now. So what I'm trying to share with you all is my vantage point. What I see. What I see when I go to the website is good stuff and it's there quickly. And it's easy to access. Our government is more open than ever before. And so from outside looking at the Commission, the job is getting done. But repeating that it's not getting done, repeating that there they are a constitutional entity, repeating rhetoric, sending out press releases on under staffing and under funding is not making the case that you are. It's repetition. It's rhetoric. Every agency, every entity, every branch, it doesn't matter to me what you are called has to come before the Legislature and make the case. DHS has to show us if you don't give us this funding, these are the people who are not going to get services. These are the people that are going to be on the streets. Terry White has to come in and say if you don't give us this funding, this many people will not receive mental health services. But we're not getting that from the Ethics Commission. What we are getting is you must have bad motives. We need more funding. Just believe us. I had a constituent come to my office and tell me he was upset about my position on the funding for the Ethics Commission and so I asked him how much should they get. And he said whatever they are asking for. That was his answer. How much should they get? Whatever they are asking for. Agencies, entities and branches this fiscal year asked for \$8.5 billion from the Legislature. We appropriated \$7.1 billion. We did not give every agency, entity or branch exactly what they wanted. And we can not. We simply can not. We would bankrupt the state. Now I've read everything that's come out. I agree that for inflationary costs, you should have received increases in funding to take care of that. I wasn't a part of that not happening. I am a part of that now and I agree that you need cost increases to keep up with inflation. I believe that we made a very good start on that with a 30% increase in a year where the rest of the agencies, most of the agencies stayed flat. And that's another correction from the press release. I don't believe anyone has ever said that the

Ethics Commission was the only entity to receive an increase in funding. What was said by me is that it's the largest increase in your history. And the largest increase for the fiscal year. I believe that was a good first step. Part of my frustration is that was never acknowledged. Not once. Not once by anyone was that acknowledged. That is frustrating. So inflationary costs yes. More investigators, more space, the case needs to be made. I've got a lot of thoughts that I wrote down which for the sake of your time I won't go through all of them. But I will privately with you if any of you wish to do so. I am available. I think John can tell you that. I think Don can tell you that. But I want you to really think hard about your next step because I think that your next step could be a very perilous one not only for this commission and their future funding, but also for the State of Oklahoma. The legal advice and counsel that I've received is that your lawsuit will fall flat. More likely quickly, but maybe not as quickly. But at the end of the day, the lawsuit will fall flat. That's my opinion. That's the legal advice that I've received. It could be incorrect. But it is a great risk that this Commission will be undertaking because if you file suit, if the court takes it up, and then you do not prevail, what is the likelihood of your funding increases from there out? Because the Legislature can simply point to the court decision and say that you are adequately funded. I think that we need to work together, but we can not and will not allow any government entity or branch dictate to the Legislature what their funding will be. We take that responsibility, that constitutional, if we want to talk constitution, we take that constitutional provision and authority very, very seriously. And we cannot send a message to the other agencies, entities and commissions that if you yell and threaten and issue enough press releases that you will prevail. I do believe that we in the Legislature want to do the right thing. But it is incumbent on you all to make the case that the funding is not sufficient to meet your needs. I and most others that I know strive very hard to comply with the rules that the Ethics Commission sets forth and we want those that do not comply to be held accountable. There is no desire to not provide you with the funding to accomplish that task. But we cannot just say you are the Ethics Commission and we will give you whatever you want. Now there have been some comments made that we're not talking about very many dollars and I think that was the intent of the press release that was sent out to say all of this money was appropriated in the last days. They could have given us some more too. We're not asking for much in the scheme of things. It's a very small dollar amount. It might be a large percent increase. But I can tell you the dollars from my perspective are secondary to the constitution. We can not allow any entity to tell us what their funding is going to be. You can make the case and we will make good on that if the case is made. I have recommended

that you seek the aid of the Office of State Finance in finding out what the other 49 states spend on a like entity in their state. I think that would be extremely helpful. I think that they can tell us how many investigators and staff that they have in other states. And we do that for comparative purposes all the time. In addition, as I've already said, we need to know what is not getting accomplished. What investigations are going undone and why the use of the Attorney General's office is inappropriate. If that is done, and you come to me, I can only speak for myself, but I can tell you if the case is made, I want to make good on it. It does me no good to sit here and argue against the meritorious Ethics Commission. Believe me. Unfortunately, because of a few bad apples, all politicians are tainted. And the belief is well they must be trying not to give them money so that they can't do their job. And that could not be further from the truth. I want you to do your job. I think your job is vitally important, but I'm not going to see the constitutional authority that the Legislature has to appropriate funds. I will be happy to take any questions from any member of the commission.

The Chairman said because of the length and complexity of your comments, I'd just like to make a few brief ones and then I'd like to move on. Number one, and with all sincerity, and I know I speak for everybody here, we appreciate the Chairman of the House Appropriations Committee appearing here today. And being very candid with us and actually being a supporter. We consider you a supporter of the Ethics Commission. You wouldn't be here if you weren't, we know. And we have some honest disagreements. Sometimes some miss communications that we need to straighten out, but it's very important to us that we be able to have an open line of communication. And obviously that's what you are offering to us. That's extremely important to us. So, we and this is not a formality and I say we sincerely appreciate your willingness to state your case and both your legal and political positions and your view from the position that you hold and your constitutional views. And we respect your views. And let me also say this, that one area I would like to state some disagreement with you is that I don't think at least nothing that I've heard and I've been at every meeting and in our press releases have we impugned the motives of the Oklahoma legislature. We have said we are entitled to more money. We believe we should have it and we believe that the constitutional mandate has not been met. Those are things that we believe in. But I haven't heard anybody here either staff or the commissioners state publicly that or in any manner suggest that there is a conspiracy among the Oklahoma legislators in either house to strangle us. And so in this sense, Representative Miller, I don't think that we have yelled or threatened. We just haven't. We have said we think we need

more money and we believe that we can make that case in court if necessary. We have tried lots of different ways to avoid commencing litigation and I don't think that we have exhausted all of the avenues that are there. Again, and I want to tell the public or whoever may care that we have had private, serious discussions with prior leadership and again, Representative Miller was not part of that situation in the past. I'm talking about past history here. But that did not produce an adequate budget. Let me say this, I would very much like to continue our dialogue with you and whoever else you think it is appropriate for us to talk with. I really believe that we can make our case, but we need to do that. I would rather make my case to elected officials who have authority and who have the responsibility that you have. You have one of the toughest if not the toughest jobs in state government. And that is appropriations. Again, unlimited demands and limited resources. That's what you live with every day and you have to make the tough calls. We do take our constitutional requirements here seriously and we take the expressed provision of adequate funding seriously. And we obviously disagree and we're getting different legal advice and that's sometimes what ends up being resolved in court. But, I would like the opportunity and I appreciate you offering the opportunity to continue discussing with you and other members of the Legislature and leadership what additional information can be provided that would show you the needs that we believe are present for this funding. I think we can get some information together. It won't be necessarily right away. But we want to do it right rather than do it quick. I know you agree with that. I hope that other members of leadership and I'm sure they will, that at the time I know some of them would echo your sentiments, but the point is you're here and we appreciate the fact that it was you that came forward and expressed your views. So thank you and obviously you have given this a terrific amount of thought. I want to repeat again and I don't know what you've been told about what we have said, but I've been at all the meetings, I've approved the press releases. We have not and we will not impugn the motives of the Legislature. We have an honest disagreement over the level of funding for this body. That is something that happens in government and I don't see this as anything sinister on the part of the Legislature, leadership or membership in either house. And finally, I don't want anyone again to think that because we state our position strongly that again, it carries with it an implication of wrong doing by somebody. We believe we are right. If we need to make our case better, whether that's before the leadership or in a judicial forum, then we need to make our case better. But it's not because we are the victims of a conspiracy or because somebody is out to get us. It is because reasonable people and dedicated people and responsible people just simply disagree

sometimes on how to meet the needs and what the needs are. Thank you again. I'm certainly not trying to foreclose any comments by my colleagues here on the Commission and there are lots of points that we could sit down and go over that you have made here today.

Miller said I may have one follow up, Mr. Chairman. One being, just what you said. You can make the case to the Legislature or to the courts. And that really is the point. Because the point is going to have to be made in one place or the other and the courts will not just simply listen to opinion. They will want facts and figures and harm. And that's the same thing that I'm asking for. And so the case will either be made here where it is more appropriate or it will be made in the courts and the choice is really yours where that case will be made. But it will be made one place or the other. And as far as the motive and the impugning, I would just say that certainly some of your advocates have been more forth coming with some of those comments than perhaps the Commission itself. But I do appreciate your time and your willingness to listen to me. So thank you for letting me be here.

Pettigrew was recognized and said I really appreciate your coming, Chairman Miller, very, very much. And I just hope it was no one on the Commission who urged you not to come. Miller said it wasn't.

Raley said Mr. Chairman, I would like echo what our Chairman has just said. Particularly about the prospects of a dialogue continuing between members of this Commission and members of the Legislature. I've always thought that reasonable solutions can be found by reasonable people. You ask that we make a case. I'm convinced that we can. I'm also convinced that we already have. We've repeated gone before the appropriations committee long before you took over that Chairmanship. I have attended at least two or three of those appropriation committee meetings myself. I am convinced that we have made our case. However, we will honor your request that we make it again. And we will. And perhaps we can make it with more specificity and more details to try to satisfy you. I want to personally thank you for the gracious manner in which you have received me in your office on at least two occasions and we've had a couple or three phone calls, I think. You have treated me with great professionalism and so I echo what the chairman has said about maintaining a contact, a communication, a dialogue of some type. If we go forward with what we have already discussed about the law suit, Mr. Chairman, it will be with the greatest of reluctance. We don't want to do it. It would not sit well upon the national scope for one agency, even a constitutional agency, to have to bring a law suit against its own

state legislature. We don't want to do that. And I'm convinced that rational, reasonable people can work out a solution. I might add, I for one and I think perhaps some of my fellow commissioners were a little alarmed when we learned that in the waning hours of the legislative session some \$22 plus million was allocated to some 13 separate agencies. As the saying goes, a million dollars here and a million dollars there and the first thing you know we are talking about real money. I'm wondering how many of those agencies in those waning hours came forward with a supplemental request that was heard by your committee and was referred on to the legislature. In any event, Mr. Chairman, we deeply appreciate your being here with us today and talking to us in a candid, forthright and a very sincere manner and we want to continue on with the dialogue.

Miller said and if I may address that, Mr. Raley. If the case is made in the same manner that you feel it is has been made in the past, it will fall short because telling us that it's a constitutional provision on sufficient funding and telling us that you're under staffed and telling us that you are under funded may sell in the newspapers and influence public opinion, but it will not influence legislative opinion. The case, if there was one made in the past fell short and a case that is made in the same manner will also fall short. There has to be specificity. There has to be harm and there has to be explanation of why what is currently in existence is not getting the job done. And I don't say that for any other reason except to say please make the case if it is there. Please make the case in a manner in which we can see it and respond to it. Raley said the case will be made so long as we are received, and I'm confident with your leadership we will be received in an open manner. I believe the case has been made and we can make the case this morning if we had to. The fact that we've been in existence for some 18 years and not a single additional person has been permitted for our staff. The fact that we are still in the very cramped quarters that we were 18 years ago. The fact that we have not received a substantial raise in 18 years. You say this was the biggest raise that we've ever received. Any raise would be the biggest because this is the only one. This is not the time nor the forum nor the place to debate that. We would prefer to walk into your office and you'll be receiving us in a cordial manner and in a collegial manner and we can present our case again and give you everything that we want to give you and that you want to receive in order to justify our request. And we'll do so. Miller said Mr. Raley it is certainly not my choice to have the conversation here in public either. But I am responding to the circumstance. And I just say for preparation purposes as we move forward, I find your statement contradictory. In that we haven't given

you any additional staff or investigators and yet the space is not sufficient. That to me is contradictory. If you've got no additional staff and no additional investigators, why is the space that has been sufficient for the past 15 years, no longer sufficient. Those are the questions that need to be answered. And I'm not pointing those out to be argumentative. I'm trying to give you a perspective from where I come from.

Loy said Mr. Chairman, thank you for being here. The fact that you are here indicates to me that you are a fair minded person and that we just haven't made our case to you and there are facts that we can present to you that a fair minded person would say that makes sense to me and we look forward to that dialogue with you and thank you for coming today.

The Chairman said let me also say my final thing. The easiest thing for you would have been for you to have chosen not to be here today. The tough choice was to be here today and to address the Commission and I respect that. Miller said thank you to the entire Commission.

The Chairman called for a ten minute break. After the break the Chairman said before we take up item 9 again, Marilyn do you have an announcement to make. Hughes said I would like to introduce our new employee, Charles Knight. If you will stand up. Charles is our new Informations Systems Network Administrator. He has already proved himself to us. We are enjoying having him on board and he's coming to our meeting to get kind of a feel for what the Commission does. The Chairman said we welcome you. We hear you are off to a flying start, to say the least, and we are looking forward to working with you. Knight said thank you, Mr. Chairman.

The Chairman said back to item 9, any additional comment about the funding of the Ethics Commission for FY-2009.

Mary Francis

Mary Francis was recognized and said thank you Mr. Chairman and commission members. Francis said I too was glad to hear Representative Miller come and state his position. It was a courageous act on his part and contributed to the information and openness of the discussion. I was a bit dismayed to hear him make some statements, particularly in that in his opinion, the Ethics Commission was "putting itself at great risk", as he said "because if you do not prevail, what are your chances of future funding increases". That's a bothersome statement. Actually in the end here, after a good faith dialogue and I'm delighted to hear that there is an intent to continue that with the

Legislature. But in the end, it's the people who are the final voice in this issue. Not the Legislature, who simply represent the people. And it could be that another initiative petition would be warranted to change the budgeting process of the Ethics Commission, if needed. But I do appreciate the fact that you are going to continue your dialogue. I think that is the way to go and the courts are, of course, the last resort. But sometimes we do have to employ them as last resorts. If that last resort doesn't work, the people still have a voice. That's the democratic process. I appreciate the input from all of you. Thank you very much. I'm getting a lesson here as well.

John Raley

The Chairman said thank you. Raley was recognized and said Ms. Francis is exactly and entirely right. We appreciate your courtesy in coming and your wise statements and I think you are right that eventually somewhere in the fullness of time a constitutional amendment is going to have to be drafted and submitted to the people which will provide an independent means of funding this commission so that this body can truly be independent and carry on its constitutionally mandated duties without fear of being short changed. So I think ultimately that's what we're going to have to have, is a constitutional amendment which will address this problem so that each year we don't have to go through the same process. So thank you for bringing that up and giving us your sound advice. I think it is well founded. I think it is something we need to do. Mr. Chairman, in light of the comments that have been made and the financial stress in which we are now under, I am going to offer a motion if the Chair is willing to accept it at this time. The Chairman said yes and let me say this. John is going to offer a motion and we'll have a discussion about it, but I don't want anyone to think that we shut the drawer on additional discussion and input from anybody who is here on item 9. We're not finished with item 9 and we won't be even after we vote on John's motion. This is not the conclusion or anything. This is something that he would like to bring forth at this time. Thank you for letting me say that, John. Go ahead.

Raley said Mr. Chairman, in light of the conversations that we've had over the last several months and the financial stress in which we now find ourselves and in keeping with our stated purpose all during these discussions that we explore every possible avenue to solve this problem short of going to trial or seeking redress in the courts, there is one other available avenue that we can explore and that's the purpose of this motion and that is to submit to the Contingency Review Board, which is composed I believe of the Governor the Speaker of the House and the Co-President Pro Tempore of the Senate. Am I correct there? Adams said

yes. Raley said and seek an emergency funding appropriation in the amount of \$238,000 to adequately fund this Commission for the remainder of this fiscal year. The Chairman said is there a second and then I'll call for some discussion. Hughes said would you specify that you have found an emergency to exist and that you are requesting a supplemental appropriation. Raley said yes that's the heart and the purpose of the motion, yes. Loy seconded the motion. The Chairman said John, I have a question. Is your motion, I think I have the answer to this, but just to clarify this. Is your motion that we seek an emergency appropriation in lieu of or instead of the continuation of the dialogue that we talked about or is it simply to parallel and to compliment that process. Raley said it is to compliment that motion. I would hope and I appreciate the statement made by Chairman Miller inviting us to continue on with the dialogue. I think it's extremely important that we do that. But at the same time, I think it's important for this Commission to explore every avenue, every option that is available to us and to avoid if at all possible litigation in the courts. And this is simply a way possibly to rectify the situation that now exists as far as our funding is concerned. I think this is an option and I think we ought to take this option and seek some relief from this revenue board. I think an emergency certainly exists and I think we should seek to have this board give us some relief. But not in any ways should it be considered an effort to avoid continuing dialogue with members of the Legislature. I think we should.

Loy was recognized and said two words interest me. One is "adequate" and one is "sufficient". I've looked those up and I know they are in a lot of dictionaries. One dictionary defines "adequate" as barely satisfactory. And since Article 29 uses the word "sufficiently" wherever we describe what we are talking about just as you did in that motion where you used the term "adequate", I would suggest that we use the word "sufficient" or "sufficiently" just to stay in line with the constitutional amendment and the better definition, I think, of what we are trying to accomplish. The Chairman said Commissioner Raley, do you accept that change in the wording of your motion? Raley said you are entirely correct and I will accept his recommendation. I think it is appropriate.

The Chairman said is there any further discussion. Pettigrew was recognized and said given what we have heard from Chairman Miller, Chairman of the Appropriations, about the need for very specific explanations of our need, what will we have ready at this time that perhaps didn't satisfy him. Even though he is not one of those three people, you know he will have input with the Speaker. Are we sure we

can be ready with that? Hughes said the supplemental appropriation request requires it to be done online. And the questions have that kind of specificity. They are very, very detailed and we have to satisfy the statutory requirement that the increase is needed to perform new or additional duties or services required of such agency. A specific explanation of the existing emergency which could not have been foreseen and the new or additional duties or services to be performed. So we're going to have to meet that duty and it will take all of us to put that request together. And it's not going to be done immediately. It will take some time. The Chairman said is there a deadline for our submitting this? Hughes said no. The Chairman said no so that we're not even saying today that we are putting this request for a supplemental ahead of the dialogue that we want to have with Representative Miller and other members of leadership. I see it as not only compatible, but part and parcel again of our effort and our commitment to go first to elected officials and try to address our fiscal emergency and the insufficiency of our current appropriation and we are doing that both by talking to the leadership informally and in the more formal fashion, when the time is right and if it becomes necessary, to submit this formal request. So again, to me they are not only consistent, but actually supportive of each other that we do this. So any additional discussion about the motion.

Pettigrew said as an added point, we as a commission at the last meeting said that we will start pulling together information that might be utilized. Hughes said all of this is the same thing. Pettigrew said it would fit together, the information that would have to be presented. Hughes said I would like for the members to understand that we are in the middle of an election cycle so we have to work this in with the normal duties and we just finished the budget work program for FY-2009 and we'll be having the pre-primary report. And so we are going to work on it. The General Counsel and I specifically are going to work on it to take the burden off of Principal Assistant, Patti, because she's got so many other duties and we feel like that this information has to come from the preparation that you are talking about. So we do that.

Representative Reynolds was recognized. Reynolds said thank you, Mr. Chairman. I wanted to caution you. I didn't realize this was going to transpire today, but I believe and you might want to research this before you go forward that the State Supreme Court has ruled certainly in part that the Contingency Review Board was operating unconstitutionally. It violated the separation powers because you had the Speaker, the Pro Tempore and the Governor. And I believe there was a law suit last year and I don't know what impact that would have on this

or if the Contingency Review Board even continues to operate in the manner. I'm sorry. I'm just pointing that out for your information. The Chairman said I appreciate that. I wasn't aware that the composition or the functioning was in question. Reynolds said I think we may have a member, an individual in the room that may be able to speak more adequately to that, than me. If he cared to and that would be Mr. Slater. I don't want to dump that on him, but I think he may be familiar with that. The Chairman said unless he just really wants to address that. I appreciate your raising that because we will look into that. But my thought today is that again, we are moving toward continuing our efforts to go to elected officials, that includes the Governor and leadership of both houses. We want to continue our efforts to talk with them, to make our case, to remake our case, and I think that John's motion serves that purpose, just as accepting the Representative Miller's invitation to us. We need to move forward on both fronts. I think I'll vote in favor of this motion, but ask staff to take a look at the legality and so forth. I mean, we could move today to do this and if further research or further considerations or any other events transpire that cause us to not want to go forward with this, this isn't something we can't decide later to not do. But thank you. I wasn't aware that there was any question about that and we'll have our legal staff take a look at it. Reynolds said Mr. Chairman, I think you indicated you were going to cover this and then there would still be additional time. The Chairman said yes sir.

The Chairman said is there any further discussion of Vice Chairman Raley's motion to declare that an emergency exists in light of our insufficient funding at the current time and to offer our staff to prepare and the Commission will submit an application for a supplemental appropriation. Not in lieu of, but in tandem with the continuation of our discussions with the leadership of both houses. Any further discussion on that motion. Pettigrew said Mr. Chairman. Is this something that should be checked out, this legality, before we take this vote? Maybe table it. I don't know.

Lee Slater

Lee Slater ["Slater"] was recognized and said the constitutionality of the Contingency Review Board for the function that this commission contemplates submitting a request has not been challenged to my knowledge. Representative Reynolds is correct that two additional functions that were statutorily assigned to the Contingency Review Board have been held unconstitutional on two separate cases. But the CRB is still alive. It's original purpose is still intact. To my knowledge that has not been challenged. To my knowledge the Supreme Court has not

spoken to the constitutionality of the board, per se. Just those two additional duties regarding funding and bond issues.

The Chairman said Commissioner Pettigrew, I'm kind of concerned like you are. I mean this now a legal issue that I certainly don't know the first thing about. I appreciate the comments that have been made about it. Let me put it this way. If staff is willing to go ahead and begin preparation for making the formal request and to looking into what legal aspects there might be to that, I don't think we have done anything inappropriate by approving the commission making that request. And again, if find that there is either a legal impediment or if subsequent events make that unnecessary, we just will ask staff not to spend their time doing it because they've got lots of other things to do.

Raley said as Mr. Slater was speaking, it suddenly dawned on me that perhaps I should offer an amendment to my motion and perhaps it could be seconded. The burden should not fall solely and exclusively upon our staff. If we are granted an audience with this emergency group, I think the Chairman or the Chairman's designee should also accompany staff for that appearance. I would like to amend my motion to include that. The Chairman said do we have a second to that. Loy said I second it. The Chairman said I agree. I would certainly try to be there and encourage other commissioners to be there and not limit it. I designate everybody who wants to be there among my colleagues on the commission. Loy said so this would be the development of a paper to present. I'm hearing the term you've got to make your case. Hughes said the supplemental appropriation request is part of the budgeting process. It's done online now. You can't even do it on paper. We can give you copies printed out after we've done it. But it's all online. Loy said you have to enter some words. Hughes said yes, we enter it all online and will print it out and give you copies. All of those will be made available to each legislator and the Contingency Review Board. Loy said and is the purpose of that to make our case. Hughes said certainly the questions are geared toward that. Raley said is there a hearing? Hughes said the Contingency Review Board I don't think is obligated to grant you a hearing, but they can. I just would like, isn't there some way that you can do a prototype of this and submit it to these lawyers here. Hughes said before we submit it? Certainly. Loy said they argue every day cases and I'd like to have all of us for that matter have a look at it just to see, well here's something that makes sense to me and it might make sense to the Governor. Hughes said OK. We will provide it to members prior to submitting it.

The Chairman said Jim seconded the amended. Raley said I call the question. Roll was called for purposes of the vote and the motion passed unanimously, with Pettigrew abstaining.

The Chairman said we are still on item 9, funding of the Commission. We would invite anyone else, even if you've already spoken.

Mark Burkett ["Burkett"] was recognized and said I am a member of Common Cause and I'm on our board. And I've been trying to absorb what I've heard in the exchange between you all and Representative Miller. And my main concern, and I'm just a layman and not a lawyer, but my main concern is Common Cause Oklahoma is the grassroots organization that tries to advocate for open, honest and accountable government. And my understanding of the way that the Ethics Commission was created as a constitutional body, was to essentially end up being a fourth branch of government that looks over the other three branches. In other words, you've got the judiciary, you've got the executive, you've got the legislative and you all are constitutionally charged to try and keep those three branches as honest as possible. Obviously, you can only go so far human nature being what it is. So when I hear Representative Miller talk about how he's not buying the argument that you all are a separate creature of our government, I'm finding that hard to understand because it seems to me like if you're effectiveness is tied to your appropriation and your appropriation is, and this may be a defect of the original amendment and the law as it eventually evolved in terms of what's adequate and what's sufficient. But if you're dependent upon the Legislature for your oversight, then you become ornamental it seems like. And an ornamental ethics commission does a massive disservice to the people of this state because it gives them the illusion that you all are a genuine watchdog when you're really just a lap dog. It would seem to me. And therefore, it looks to me like, and I've seen how the staff on this commission has had to deal with various rosters of ethics commissioners and pressures over the years. I've lived in Oklahoma City for almost twenty years and I've been in Common Cause for ten years and I've seen how you all have constantly tried to do more with less and getting no respect from the people that you're supposed to be overseeing. And so forth and so on. Finally, it seems to me like and this is my perception, is that it's finally come to a head and now you're at the point of negotiating which was a practice that was originally attributed to Al Capone which is you can get more with a kind word and a gun than you can with just a kind word. And over these many years I've seen many kinds come from the Ethics Commission to the

politicians in this building with not a whole lot of response from the politicians. And I can see Representative Miller's warning that it's going to be, if you have to go to the law suit, if you go from the kind word to the gun, it is going to be pretty high risk. But, if you can't get respect from the Legislature and you can't get some kind of agreement as to what adequate and sufficient is, I mean it's finally come to a head. You're going to have to, you get more and more burdens on the staff and you're going to have to, you know, come up with some understanding between you and the Legislature hopefully with the least ill will as possible. But, like I say, and when I hear him talk about how that there is duplication of staff with investigators and why don't we get somebody from the Attorney General's office. Like I say, I'm just a layman, but it would seem to be like that the Attorney General is an elected official who is overseen by the Ethics Commission, the effectiveness of an Attorney General employee working on behalf of the Ethics Commission would not be particularly above board and would not pass the basic smell test. It would seem to me like. So I don't see where he comes up with the notion that you just share staff and maybe even space with the Attorney General's Office. Well, am I missing something in the way this whole body was originally constituted. You're supposed to be watching the other three branches. You're not supposed to be essentially dependent on the Attorney General's staff of the Legislature for keeping the doors open and so forth and so on. What am I missing? I'm missing what he was talking about. And I would be a lot more respectful of Representative Miller in particular his sincerity in being a scrupulous watch dog of the funding of this agency if in this last appropriation, I think it was \$50,000 showed up that you didn't ask for and specifically said you didn't need. Where that whole thing came from if he's really trying to be this scrupulous watch dog on behalf of the people's funds and so forth and so on. Like I say, I'm fearful about what's going on and it just seems to me like that maybe, like I said I'm just a layman and not a lawyer and maybe I'm missing something. But it just seems to me like the stakes have been getting aggressively higher. Maybe that's inevitable, but like I said, there is a big difference between an ornamental Ethics Commission and a genuine Ethics Commission and I'm just really on my behalf especially, extremely appreciative that the current roster of commissioners on this commission now a days is not rolling over as I perceive it. And maybe I'm being unnecessarily harsh to previous commissioners and I don't know all the ends and outs and pressures that they were under at their time, but it seems to me like it's probably come to push come to shove. And I don't know what I could advise you all in terms of how far you want to roll the dice on the legal avenue, but if there is some other avenue

that you all can take that will avoid that kind of confrontation, I'd like to know what it is. And that's my comments.

The Chairman said thank you sir. On your last point, I'll just say what I've said before. We are looking for a non litigation solution. And that's why you've heard us do some of the things we've done here today. We always have, we always leave the possibility of litigation open. We've expressly made it an option. It's always been there implicitly, but we have in our public discussions have expressly made that an option. We've instructed our staff to begin making preparations for the commencement of litigation if that can't be avoided. And you know, I'm just speaking for myself here, I hope for the best, expect the best and prepare for the worst. I think we are doing both. We're really, we're glad to have additional opportunities to talk to people who make funding decisions, our elected officials. Again, I really welcome such an important member of the Legislature coming in. And although we have some honest disagreements obviously, nevertheless, inviting us to speak with him in detail about our needs and not just our legal position, but showing how lack of funding impairs our ability to accomplish our mission. That's what this is all about. It's not just some effort on our part to fund an activity that would like to think is in the public good. Yes, we think that there is a lot of public good accomplished here, but we're also trying to follow what we believe is a constitutional mandate. Burkett said at our next board meeting I'm going to try to see if I can get Common Cause Oklahoma to somewhere be more effective in forming and alerting the public to the fact that the Ethics Commission is not just another state agency as I understand it. Am I wrong with that? I'm under the impression...am I being hyperbolic that the Ethics Commission is effectively the fourth branch of the Oklahoma government? The Chairman said I don't want to offer a legal opinion on that. I'll just say this, we are a special constitutional body. And that's the phrase that I've tried to use because it is the most narrow and yet it is still accurate. I think that we have unique constitutional responsibilities. We have in the expressed language of the Constitution, a unique provision. Most of the concepts of sufficient funding are implied in the Constitution. Obviously, if you have branches, the governor's office is entitled to sufficient funding and the legislature and the judiciary respectively are entitled to sufficient funding. But that's all implied in the Constitution. The framers and the people who voted on this amendment in 1989, placed it in express language that there is nothing implied about it. You don't have to read between the lines. It's right there in terms of the constitutional requirement of sufficient funding. Burkett said I can understand Representative Miller's point of view that you just aren't

supposed to be able to say just give us the minimum. Just like there is an unlimited amount of funds that you can ask because you are special. I understand that. But you all are going to have to arrive at some kind of mutual understanding that is acceptable to both. I think he hasn't quite got the grasp of what it is. I think you're more reliable about knowing what's sufficient from he is from what I was hearing this morning.

Raley said Mr. Chairman, I think something needs to be said at this meeting and the record should reflect a very important fact that has not really been touched upon. I regret that Representative Miller is not here at this point but I would like to relay to him this motion and if I have an opportunity, I'll do so. But we are not a lap dog of the Legislature at all. The Legislature may control our purse strings, but this Commission despite the being hampered by under funding has performed its job admirably and the reason why we have is because of the heroic efforts of the shamefully under paid and over worked staff that have worked long hours and with inadequate pay to do the job that they have done. And I think we should pause for just a moment and commend our staff for the magnificent job that they have done despite the being hampered by the failure or the refusal of the Legislature to sufficient fund us. I think that statement needs to be made.

Pettigrew said I would just like to add one little thing when I was listening to our Director, Hughes. If you just go to the increase in the cost of living for each of the years since 1990, that's one simple way to show the need for additional funding. Just think if you had added that on each year, it would come to a lot more than the \$238,000.

The Chairman said again, I'll reserve my own additional comments quite honestly for private discussions. And then ultimately, our ongoing dialogue and I think someone called it a debate over adequate or sufficient funding, you know, that's why we have a judiciary to begin with. Is sometimes to resolve conflicts that just can not resolved through discussion. I'm not convinced that we're at the point that we can't resolve it through additional information and discussion and that's why I appreciate the invitation given today by Representative Miller and that's why we accepted his invitation to provide additional information and to have serious discussions. I think he is very serious about listening and considering. I believe he does have an open mind. I think he reflects the open mindedness and the thinking of some of the other legislative leaders and so I really am hoping for the best and expecting the best. But at the same time as you've pointed out, we've left all of our options open and we're committed to going forward. I hope as much as anyone here

that a law suit is never filed. But we haven't taken that off the table while we are continuing our efforts to resolve it with elected leaders.

Mike Reynolds

Reynolds was recognized and said thank you, Mr. Chairman. Commissioner Raley actually said my first comment. The case has been made. The case has been made without question. I have myself conveyed additional certified mailings, additional just day to day costs to various members of the Legislature. I think it is, someone came today to make their case and it's very interesting they're not here to hear the case being made. That is not insignificant to me. The public is on your side. The public got one of the few initiative petitions to constitute you. One of the few in the last few years. They are with you 100%. The only way we are going to have government cleaned up is by exposing dirty deals. And this Commission is the appropriate place to expose those dirty deals. It's not the Attorney General's office. The public has said we want an independent commission. And you need to be funded adequately. There's no doubt about that. I have, in fact, heard numerous legislators say they would cut your budget to nothing if they could. Contrary, apparently Representative Miller has not had the same discussions I've had. I will say that publicly. I will not name anyone that I spoke with so there is no point for anyone to ask me. But I have heard that, numerous times. We have no guarantee that Representative Miller will be the appropriations chair next year. Republicans have no guarantee they'll be in the majority. That is no disrespect to Representative Miller whatsoever. A new Speaker may chose to replace him with any other person and then your discussions with Representative Miller will have been completely fruitless. And he represents one vote out of 101 votes in the House of Representatives. It's very frustrating to me as a representative that many ideas are not even brought forth because of the concept that they should be run through the leaders. Now I understand that there are 101 leaders in that room. Senate Bill 1229 didn't pass to the Governor, but we took action on it several times in the last session was a bill that I had an amendment on to take the funding mechanism of the Ethics Commission and apply a formula so that you would not be able to be held hostage. And in fact, if you were to examine the record on Senate Bill 1229 you would determine that a number of amendments were heard on that bill. But when it was time for my amendment to be heard, the leaders refused to recognize me on the floor of the House. They would have had an opportunity to have the case made at that point. They chose not to. So I want you to consider very carefully if they really want an open public dialogue. The suggestion that the Attorney General could take over your investigations, well then you would simply be putting another investigator in the Attorney General's office. You still

need another person to do this. Why would we want to co-mingle the Executive branch with the Ethics Commission? It makes no sense. You still have to have the work done. It takes another employee. That's the problem unless the Attorney General's office has people sitting over there twiddling their thumbs. And I do not believe that's the case. We talk about constitutionality. You're a constitutional body and yet the Legislature chooses to ignore the constitutionality of some issues. And in the last hour of the Legislature we spent, as you have indicated, millions of dollars. And where did we get those millions of dollars? It looks like we got them from a tax forgiveness program. Tax amnesty. One man owes \$35,000,000. Our constitution plainly says you can not forgive debt. The State of Oklahoma can not forgive debt. So some legislators ought to read their Constitution a little better. And I believe that will be challenged. In fact it has been challenged in court by the same gentleman that challenged the Contingency Review Board, I might add. And won. So I would encourage this Commission, yes, dialogue is wonderful. But it appears today that it's been a one way dialogue and I am fearful that it will continue to be. I would encourage the Commission to seriously consider ongoing with their law suit because I'm afraid that anything less will not be productive. And I thank you.

The Chairman said thank you, Representative Reynolds. I want to, again, we are pleased to have the opportunity to have additional discussions with Representative Miller. And we certainly don't want to imply or suggest that we don't also want to meet with members of the other party. Let's make it crystal clear that we look forward to meeting with leaders of both parties. Absolutely. So, just I throw that out there. I trust everyone understands that we happen to be talking to a leader of one party here today, but that we are anxious to talk again and continue the discussions we've already had with the leadership of both parties in both houses and not the exclusion of either chamber.

Hughes said can I also point out on the Attorney General question that the Attorney General has the authority to enforce statutes. The Ethics Commission has no authority to enforce statutes. It has authority to enforce rules that it adopts. The Attorney General does not get into that. The only way the Attorney General can enforce something that the Ethics Commission has in its rules is if it is also in statutes. So when you talk about them doing the Ethics Commission's job, they don't have the jurisdiction to or the constitutional authority to do that addressed in Article 29 with the Commission. And it carries civil penalties. The Attorney General can only enforce criminal penalties for similar statutes that the Commission has in its rules. Thank you.

The Chairman said we are still on item 9, consideration of funding. Any additional public inquiries, comments, discussion? Raley said Representative Reynolds should be commended for his statesmanlike manner in which he has represented the interests of the Ethics Commission to the state Legislature. And we are appreciative of those efforts, Representative Reynolds. We know what you've been doing. We read in the papers like everybody else and we know of the strong support that this Commission has received. So thank you for your continued support.

The Chairman said additional comments, inquiries or discussion. There were none.

Consideration Of
Whether To Re-adopt
Commission Policy
Regarding Executive
Director

The next item on the agenda was consideration of whether to re-adopt the Commission policy originally adopted on September 28, 1995, that the Executive Director ["Director"] be an attorney licensed to practice law, with not less than five years experience; that the Director be authorized to employ and set salaries of Commission staff within the limits authorized by the Legislature under the merit system; that the salary of the Director be set at a figure equal to that of a district attorney; and that the Director be responsible for the administrative operations of the Commission and perform such other duties as may be delegated.

The Chairman said I would like to say that I hope that there will be a motion to adopt this as a policy. I would like us to authorize that the Executive Director's salary be set a figure equal to that of a District Attorney. Unfortunately, we don't have the money to actually fund a salary at that level. But I would like us to state that that is our policy, that if funds are available that our Executive Director should receive a salary not less than that of an Oklahoma District Attorney. But I want to make it clear to everybody that even if this motion passes today, that's not what we are going to do. We don't have the money to set it at that level. And think that that's what the Director's salary should be set at and that will hopefully be the subject of a motion, but we just don't have the money to accomplish that this year.

Raley said Mr. Chairman, I offer a motion that we adopt what the Chairman has just read as requirements, duties of the Executive Director, qualifications and so forth. I do this as more of a housekeeping, administrative matter than anything else. Something that happened in 1995, thirteen years ago, that we should have recognized before now as the thing to do. It is the right thing to do. So I offer a motion consistent with the Chairman's statement. The Chairman called for a second.

Pettigrew seconded the motion. The Chairman said it has been moved and seconded that we adopt as a policy what is stated here in item 11. Any discussion. Pettigrew said I did second the motion, but I have some questions about the salary of district attorneys. I assume that they are not consistent throughout the state. That there is a difference according to maybe county size. Does anyone know what we are setting as a figure? Hughes said it is set at 98% of the salary of a District Judge. And they are all paid the same. Pettigrew said oh, all district attorneys are paid the same. Adams said that was not always the case, Commissioner Pettigrew. Hughes said there was a time when larger counties were paid more. But not now. The Chairman said all district judges and associate district judges are paid a set salary by statute. The DA's salary is set as a percentage of those. Hughes said 98% of that. The Chairman said so all district attorneys receive the same salary. Adams said correct. The Chairman called for additional discussion, questions on the pending motion.

Mary Francis was recognized and said Mr. Chairman, just a point of clarification. Is part of this policy that you are considering re-adoption and part of it new or is it all currently part of the Commission's policy that was adopted in 1995? Hughes said it is identical. Francis said identical. Hughes said yes and that was identical to a statute that was an original part of the Ethics Commission Act before it was repealed in 1995 which is the reason the policy was adopted. Francis said thank you.

The Chairman asked if there were other questions, comments, discussion. There was none. Roll was called for purposes of the vote and the motion passed unanimously.

Raley was recognized and said I would like to offer another commendation for Representative Reynolds. I failed to mention a while ago when I was commending him on his efforts on behalf of the Ethics Commission. One of the most important rules I think that this body has ever passed and which has now become the law is the prohibition of funds from one political action committee to another. This is something that we have been studying for some time and I would like to commend Representative Reynolds for the strong support of this rule. He has given us advice from time to time on how this should be implemented and I wanted to commend him for his efforts in that regard.

Reynolds said thank you very much.

The Chairman said we will take a five minute break at this time.

Consideration Of
Whether To Compile A
Booklet Of All Policies
Pertaining To the
Commission

After the break, the Chairman said we are now on agenda item 13 which is consideration of whether to compile a booklet of all policies pertaining to the Commission and its staff. One of the really positive phenomena that occurs it seems like whenever we get a new commission member is that obviously there are new ideas and new energy. And sure enough, Commissioner Pettigrew has some very interesting ideas in this regard on item 13, and I'd ask her to kick off the comment on this.

Pettigrew said thank you, Mr. Chairman. Yes, I do have a background in writing policies, particularly for education for school boards. That doesn't mean that we as a commission need the same kind of policy book. I don't think it needs to be that extensive. But I think the discussion we had on the last item, number 11, pointed out the need to have them in a separate book. There was really, as best I see it, no reason to have to re-adopt the policy because we have it right here in front of us as it was passed in 1995. But if you don't have it written down somewhere, clarified, then you have to go through what we went through before. And my idea is to pull things together such as requirements for being a commissioner. I've been trying to read this thing cover to cover and it's a little bit, the task is daunting. But I was particularly looking for things pertaining to commission members. And I found them all throughout the law in various places. A policy book would pull all of that together in one section about qualifications for being a commissioner, things like the fact that when the term begins, who appoints, when you elect officers. It's in the statute when we elect officers and all of those things. So it would be for things like that and for things that we adopt. There would be some things that yes, are already in the rules or statute. And the reason I would say you still need them in a policy book is that you can put them in a much more concise form and say this is the policy and reference at the bottom of the policy the law that it refers to so you can easily go back and double check it and say well I don't believe that. And then you say well yes. So, I would just like to see us as a commission work on this. This is not something that has to be done suddenly. And it is one of those things that is a never ending task. In other words, you never finish it completely because you will always look at it and revise it and add to it. But, Mr. Chairman, I would put forth a motion that we begin working on a policy book for the Commission.

Raley said I will second that motion and let me add just very hurriedly. I think this is a superb idea that Dr. Pettigrew has set forth here. There are of course some written rules, regulations. But there are some that are unwritten, custom, tradition. For example, one custom and I don't know whether it is written down or not because I haven't

researched it but we've practiced it just by common consent that none of the commissioners lobby any other commissioners for a vote. We reserve our comments for an agenda item. But we don't make an attempt to influence each other's votes until we get in a public setting. Those are some of the unwritten and regulations that we have adopted by common consent and I think all of them should be compiled in a booklet that we will make it readily available to all, particularly to those commissioners who are new on board. So I second the motion.

The Chairman said it has been moved and seconded. Commissioner Pettigrew has been kind enough to share some of these really good ideas with me before hand. She and I, all of us have a concern though, that this really needs to be done and it's like so many things that we have on our to do list for the Commission. We don't have enough staff and staff doesn't have enough time to set aside other things and work on this particular project. But it needs to be done. So how do we get this done. I hope that number one, everybody recognizes that it is going to be something that is going to take some time. Both because it has to be done carefully and it is complicated. But also because we will just work on it when we can. Secondly, Commissioner Pettigrew has offered to spend some of her own time working on it. And I don't mind pointing out she is not compensated by the State of Oklahoma or anybody else to help us prepare even important projects like this. I wish that we didn't have to take up her kind offer, but we are going to have to. We need her help if we are not just going to let this sit for three or four years as a good idea that everybody approved and thought should happen. If we really want to see it happen, we need some extra help because obviously we are stretched to do things. So, I don't know if we need to do it by motion, but I'm going to vote yes on the motion because I think it's a great idea. It is something that is really very important for us to have. I just want to state my own apprehension about the fact that without some volunteer work by Commissioner Pettigrew and she is extremely well qualified to do it, that even with her guidance and her leadership on this and her spending some of her own time, it's still going to take a long time to get this done and get it done right. It's just a complicated task. But without her volunteering her time, it just wouldn't happen. As good an idea as it is, our legal responsibilities are such that it wouldn't happen. It would be such a low priority that I don't when you would ever even get it started. So, I'm in favor and I'm going to vote yes on the motion because I think it is a terrific idea.

Pettigrew said and I will add that of course nothing would ever be put in as a fact without full approval by the Commission. They would

look at it and vote. My idea was that maybe I would come up with some starting ideas for organization and maybe take on the task of those things that pertain to the Commission itself since I think I can find those. And that if I can just email them to someone on the staff, they can email it back out to everybody and look at it and then we can look at it again in our public meeting and take maybe a little bit of time each meeting to see if we are moving along.

Loy said it might be embarrassing to see in print though that except for the subjective judgement of these people who appoint us that no qualifications are needed to be an Ethics Commissioner. The Chairman said I think there is a residency requirement. I think we literally are appointed because we reside in a certain district. Loy said I guess so. Raley said there is a political mix to it. The Chairman said Commissioner Loy has pointed out something that I hadn't thought about in a while. Any further discussion.

Darey Roberts ["Roberts"] was recognized and said I don't want to speak out of turn, but I don't know if anybody has addressed this but I would like to personally acknowledge Commissioner Pettigrew's coming down to help us with the candidacy. I mean her and her husband came down and it was very helpful to help with the people and giving us time to take a break. So I just wanted to publicly acknowledge her help. The Chairman said Commissioner Pettigrew and her husband Paul came down and again just volunteered their time on an uncompensated basis to help out during the candidacy period. Hughes said it was invaluable. Loy said is that part of our case. Hughes said we will put it in. Pettigrew said Hughes had to go off and testify in federal court. Hughes said and she filled in the day I was gone. She and her husband. Pettigrew said I didn't feel like we did very much but sometimes I think it was helpful. Adams said you helped a lot. The Chairman said we appreciate it very much. Pettigrew said thank you.

There was no further discussion. Roll was called for purposes of the vote and the motion passed unanimously.

Consideration Of Whether To Examine Existing Statutes And Rules In Order To Address Organization

The next item on the agenda was consideration of whether to examine existing statutes and rules in order to address organization. The Chairman said this is related and recognized Pettigrew. She said as I said this would be much more extensive than a policy book for the Commission. I see it as maybe a huge task, but one that we could maybe get some help on and that we could maybe do it a little bit piecemeal. Having worked in writing legislation and reviewing, I know that

sometimes it's kind of like putting a band aid on something. Things get moved in different places and it can be improved even in the statute by moving things together. For instance, the different things that pertain to commission members because there is one way over here in Section 74 of the statute and another in 29 and so forth. So, I as a commissioner would be willing to try if we think this isn't just too huge, just on my own, to try to get some things moved. But I really think we might need some help from some others. And, I don't know if we are ready to undertake that. I do think though we need to start on it. I think we need to at least bring this forward that you...and we can't do a lot about moving things from the Constitution into the statutes and some of that I thought could have been ordered a little more clearly because all of a sudden at the end it has something else about a commissioner when all the other things about the commission were in the first part. But to the extent we could, I'd like to see us try to organize the book. After all, the people that have to follow this book, I would say, are our customers. We expect them to abide by the things that are in here. We hold them responsible. And have they tried to read this thing through. I think we are asking a great deal of them on their own to be able to do that. And I think if we could perhaps improve the organization. There are some statutes that are repeated in here and maybe, I'm not an attorney. Maybe it is needed to have it repeated. But I just want to say that we need to look at it with things in mind.

The Chairman said I don't think we need a motion on 15, but I think that goes with 13. Pettigrew said it does. The Chairman said I'm 100% behind you. There are lots of statutes, lots of rules, lots of constitutional provisions. Not a lot of constitutional provisions, but there are some constitutional provisions that are pertinent to what we do here. To the extent that, I have some time on that. With the legal background I would be happy to work with you on that. Again, to the extent that I have time. And I appreciate the time you're going to spend working on looking at the existing statutes and rules and integrating them in a way that makes sense. And hopefully, improve what we already have.

Hughes said I'd like to volunteer to work with her also. And I also would like to say that some of the duplication comes from the fact that we have criminal statutes and then we have civil rules. And they sometimes are almost identical in wording, but they carry different kinds of penalties. And we can enforce the civil rules and the AG enforces the criminal penalties. But in light of that, I discovered this statute this week and it was rather shocking because it puts...The Chairman said for the record, Marilyn is passing out a copy of Oklahoma Statutes Title 21,

Section 463. Hughes said it makes it a felony to file a forged or false instrument with a state entity. And might be wrong and we had never considered this as something that could be applied to something filed with our agency. So, you know, in organizing what we hand out to the public, we aren't under the obligation to show them the criminal implications of what they do. All we have to furnish them really is a copy of the rules. But we've always included some criminal statutes in there that could apply to them and this is one of those that probably in the future we are going to want to include in that so that they are on notice that they have this kind of liability in addition to their liability under the rules and under other existing statutes.

Pettigrew said that is something new. Hughes said yes it is. I don't think it's been in a newspaper article or anything, but it is something to think about and it's probably something we're going to want to put in that book. Because if somebody can file a report with us and it can be proved that they filed information that was either forged or false in some way, they could be liable for a felony penalty. And I don't think they're on notice of that particularly. We're not under the duty to put them on notice, but I think Commissioner Pettigrew's idea is good that we think about organizing this and hopefully helping those who fall under our rules better understand their liability.

The Chairman said well, I look forward to, I want to point out, you know, in a different world we might just turn to our general counsel and say this concerns statutes and the constitution and so we would probably ask Rebecca to spearhead this. But I wish the public knew more about what our General Counsel, Rebecca Adams, does because she, like our director, and they are both lawyers, but Rebecca is General Counsel. And we obviously can't disclose a lot of what she does, but she has really an enormous job and this is not one more task that she can put on her plate. We ask her to do certain things that are priorities and although this is a very valuable idea, I think it ought to be done. I'll help out to the extent that I can and Commissioner Pettigrew is going to volunteer her time. Again, these are things that if we can get them done with volunteerism, we'll get them done and it will still take a while. But it is going to take that type of, for lack of a better phrase, uncompensated effort by volunteers. Because our entire staff is already working extremely hard to establish and prioritize goals and projects. These new ideas as good as they are, would just have to take a lower priority of some of our other existing projects. But we could still get them done over time if some of us just pitch in. And again, the primary person who has been generous enough to offer her time is our colleague, Commissioner

Pettigrew, and so let's do that. Let's take a look at existing statutes, provisions of the Oklahoma Constitution, regulations, whether they are promulgated by other agencies, other bodies, so that we educate the public. By the public, I mean people who don't have anything to do with government, people who are inside government, people who are outside government about the legal aspects of dealing with the Commission and the legal aspects of running for office and holding office in Oklahoma. We're not required to put these criminal statutes in any of our literature, but I think it's the right thing to do. It puts people on fair notice and it's just something we ought to do.

The Chairman asked if there were any further comments. There were none.

Administrative Report

The next item on the agenda is the agency's administrative report. Hughes said she just needed to point out some corrections. On page two of the administrative report, the seminar that taught the Senate was not July 11 since today is July 11. It was June 11, the week after filing for office, so I had that wrong. And on the budget request for supplemental appropriation, I should have listed the total in the second paragraph the last sentence should read, "the total has been reduced from \$28,020,000 to \$22,050.00. And that's all.

Closed/Executive Session
For Consideration Of The
Confidential Matters Set
Forth On the Agenda

The next item was a proposed closed/executive session, authorized and required by Title 25 O.S. 2001, Section 307(B)(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 Chairman called for advice from the General Counsel on the lawfulness of the proposed executive session. Adams stated that matters set forth at item 19 on the agenda are made confidential by law. It is the advice of your General Counsel that the Commission go into executive session at this time for the limited purpose of considering these matters.

Action followed, as the Chairman entertained a motion to go into closed session. Pettigrew so moved. Loy seconded the motion. Roll was called for the vote. The motion unanimously passed.

The Chairman 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. The Chairman called for a motion to go back into open session. Pettigrew so moved. Loy seconded the motion. Roll was called for purposes of the vote. The motion passed unanimously.

Pettigrew moved that IV-2006-012 be continued; that IU-2007-007 be tabled; with respect to IU-2008-001, we ask the staff to proceed as discussed in executive session; with respect to IV-2008-002 we take no action; with respect to IV-2008-003 we take no action; with respect to IU-2008-004 we open an investigation with subpoena power and with respect to IU-2008-005 we open an investigation with subpoena power. Loy seconded the motion. Roll was called for purposes of the vote and the motion passed unanimously, with Bingham abstaining on IU-2008-001 because he has disqualified himself.

New Business

Next on the agenda was new business. There was none.

Adjournment

The Chairman then announced that all items of business listed on the agenda had been addressed. He thus called for a motion to adjourn.

Action followed, as Raley so moved. Pettigrew seconded the motion. Roll was called for purposes of the vote. The motion passed unanimously.

The Chairman then declared the meeting to stand adjourned.

REBECCA ADAMS, General Counsel

Approved On Behalf Of The Commission:

DON BINGHAM, Chairman

MH/pb