

MINUTES OF PUBLIC HEARING AND REGULAR MEETING  
of the  
ETHICS COMMISSION  
STATE OF OKLAHOMA  
held  
DECEMBER 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 Thursday, December 11, 2008, at 10:00 am. Chairman John Raley ["Raley"] 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: Raley, Jim Loy ["Loy"], Don Bingham ["Bingham"] 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 ["Bryant"], Principal Assistant; and R. Darey Roberts, Investigator. Observing all or part of the meeting were: Andrew Downing, attorney; Ron Jenkins, *Associated Press*; Deanna Fields, Oklahoma Manufactured Housing; Dr. John Wood, Rose State College and Common Cause Oklahoma; Lee Slater, attorney; Michael McNutt, *The Oklahoman*; Scott Cooper, *Oklahoma Gazette*; Mick Hinton, *Tulsa World*; Tonya Lee, lobbyist; Shawn Ashley, *Capitol Network News*; David Glover, Common Cause Oklahoma; Caroline Dennis, Senate staff; Darci McKee and Cathy Welch, Campaign Technologies; Peter Rudy, *KTOK Radio*; H.J. Reed, lobbyist; Pat Hall, lobbyist; Representative Mike Reynolds, Richard and Lois Hilbert, Common Cause Oklahoma; Senator Randy Brogdon; Jason Doyle, *OETA*; Amy Alden, House staff; Senator Anthony Sykes; Jeff Packham, *Journal Record*; Secretary of State Susan Savage; and Jesse Wells, *News Channel 4*.

Public Comment on or  
Request for Constitutional  
Rule Amendments

Next was a 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. 2008, Ch. 62. 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 December 11, 2008 Regular Meeting of the Ethics Commission*, incorporated by reference in this agenda as fully set forth in the document.

Raley

The Chair asked to make a quick statement. “We have a number of people here, and I’m very pleased to see the good turnout because I think possibly most of you are concerned about rules that we will be considering today. This is democracy in action. This is a very important function, and you being here today speaks well of yourselves and the people you represent to come and offer your comments and express your concerns about various rules that we will be discussing and which we will vote on at this meeting in January. Let me stress, for those of you who have not been with us before, we discuss these proposed rule amendments during and throughout the year. But, the first meeting of the year in January, the members of the Commission will debate and vote upon the proposed rule amendments for which a sponsor has been assigned.

“Now, we had a good meeting last month in Ponca City. I was pleased, and we were all pleased that we had a good showing from people and our friends in Tulsa and elsewhere. Since that time, the members of the Commission and staff have received an abundance of communication from individual citizens throughout the state and a great deal of correspondence from people associated with the State Chamber of Commerce. I have read every one of the emails. I’ve read every one of the letters. I’ve received some phone calls, and I am constrained to believe that my fellow commissioners have also read the emails and the other forms of communication.

“We listened very carefully last month to expressed concerns from a number of you who are here today. We do not want to restrain or restrict anyone who wants to speak in favor of or against any of these proposed rule changes. But, we don’t want to rehash what we’ve already heard. The members of the Commission listened very carefully

to the comments that were made last month and the month preceding. We will listen very carefully today. But, in the interest of time, and we have a fairly full agenda today, please do not rehash arguments that we have already heard.

“In addition to the comments that were made at the last meeting, some of you have sent statements of some length which contain some arguments both pro and con on these proposed rule amendments. We’ve received those statements. We have read them. We will consider them.

“So, let me ask at this time, may I see a show of hands of those who would like to speak regarding any of the proposed rules? May I see a show of hands, please? Thank you sir. Thank you very much. Are any of those of you who held your hands up representing a particular group? The reason I ask that question, if you could appoint a spokesperson for your group or your association or your organization, we would like for that spokesperson to speak for you so that we won’t be repetitive. So, if you would choose, those of you who represent a group or an organization, choose one of you to speak.

“Alright, with that little preamble, let us move into consideration of the proposed rule amendments. They have been published. I think each of you have received a copy of it, a synopsis of the proposed amendments.

Rule Amendment #1

“The first is proposed Rule Amendment #1 which adopts a good-faith effort for obtaining contribution statements. Is there someone present who would like to speak on behalf of that proposed rule?”

H.J. Reed

H.J. Reed [“Reed”] was recognized. Reed said, “Thank you, Mr. Chairman. My name is H.J. Reed. I am one of the co-sponsors of this particular rule amendment. We brought this rule amendment forward last November. It is patterned off a Federal Election Commission rule. And, it provides a safe harbor for candidate committees. A lot of times I’ve visited with you about the lobbyist rules. This doesn’t have anything to do with the lobbyist rules. It specifically addresses candidate committees.

“And, what we would hope — this is a first shot; it is not sponsored at this time — but, if someone would like to sponsor it, we wrote the rule as requiring one time for a safe harbor for contact to someone who gives a campaign contribution. I don’t think that the intent of the Commission was to prohibit campaign contributions. But, you want the information that is on the disclosure card. This provides for a

safe harbor alternative if that card was not given with the contribution at the time it was received for follow-up.

“I think we wrote this as one time. And, a couple of folks have visited with me and said, ‘Do we care if it went two times or three times?’ And, we submit the rule for that purpose — for your evaluation and review — and, if you choose to amend it to your satisfaction for passage, that’s fine. But, we particularly — in some races this is a burden, and this alleviates that burden on those candidates.”

The Chairman thanked Reed. He asked, “Does a member of the Commission have a question of Mr. Reed?”

Bingham asked, “I think I know the answer to this, but just as a point of clarification, if a person gives a check to a campaign, and they don’t fill out a contributor card or they don’t fill it out completely, they are still going to be listed as a contributor, aren’t they, on the reports?”

Reed said, “Many of us think that the check should suffice and to do away with the form. There was a rule last year to do away with the form. You chose not to do that. So, therefore, we bring this as somewhat of an alternative. But, yes, the answer to your question, is if you are a candidate, and I provide you a written instrument and not that document, what this does is, it allows you to communicate with me to get that information. But if I don’t, you still list it on your campaign report.

Bingham

Bingham responded, “Again, I’ll speak for myself — not everybody on the Commission. But, the important part of that card to me is not the occupation or whatever. It is the certification by the person that they haven’t been reimbursed and that they are the actual giver. So, that’s why I was against eliminating the form altogether. But, I’m willing to be the sponsor for this. Maybe we ought to have two efforts instead of one. I just know that — and I’ve said this before — the practical reality of trying to get the card either at the fund raiser or after the fund raiser is a daunting task. And, it’s important. But again, even in the absence of the card, we are still going to have the name of the giver and we are going to have the amount of the contribution. Right?” [Reed answered, “Yes.”]

Bingham continued, “It leaves a paper trail. And, here’s some treasurer who is doing his or her best to try to get the card filled out, and for a number of reasons we can all imagine, sometimes that just doesn’t happen. It’s not the fault of the treasurer, the committee or the candidate.

I can think of a couple of tweaks we might do on this, but I would be willing to sponsor this proposed Rule Amendment #1.”

Raley asked, “Does anyone else have any comments on proposed Rule Amendment #1?” There were none.

Rule Amendment #2

The Chairman announced, “Proposed Rule Amendment #2 requires [the name and address of the recipient,] a description of the consideration and an explanation of the purpose which must permit a reasonable person to determine the reason for the purchase. I am sponsoring this rule. This is an outgrowth of some items that we have seen over the past several months and years where there has been a generic, rather vague explanation that does not give a reasonable person any idea of what an expenditure is for. In the interest of the transparency and full disclosure, we thought that perhaps would assist us somewhat in getting that information that should be provided so the general public has an idea of where this money is going. Does anyone have any comment or a question concerning this rule?”

Lee Slater

Lee Slater [“Slater”] was recognized. “Mr. Chairman, I would ask the Commission to consider as it considers this rule the impact on candidates who are constrained to operate their campaigns on very low budgets. This proposed rule is going to cost candidates money — a lot of money. If you are running a statewide race, it’s going to cost them a lot of money for the record-keeping involved. It’s basically a check register requirement. It’s a rule that — whether it is designed to do that or not — has the effect of favoring candidates who are well financed. You will recall the candidates who have less than \$20,000 in campaign funds may file a manual report. This is a much more egregious requirement if you are filing manually probably than it is if you are filing electronically.

“But I would submit to this Commission that raising campaign funds in a time when the economy is continuing to decline is going to become more and more difficult this year and next year and for the foreseeable future, and I think this rule has the perhaps unintended effect of favoring well financed over candidates who can’t raise as much money. You are simply going to have to pay more to fill out the reports. And, one other thought, I have read the Commission staff’s response to some of the funding issues that have been raised by the Commission. And, it appears to me that this is just one more layer of data that the Commission’s staff is going to have to be concerned with in the event of

their investigations or audits. And it seems to me that now is not an appropriate time to do that.”

The Chairman said, “Thank you, Mr. Slater. Does anyone have any questions of Mr. Slater? Does anyone else care to speak?”

David Glover

David Glover [“Glover”] was recognized. “I am David Glover, on the board of Common Cause Oklahoma. So, I won’t be repetitive, we have sort of a general short statement, but also specifically to [proposed Rule Amendment] #2. Common Cause is a non-partisan group dedicated to openness and better information and honest government. I have been sent by the board to speak to some of the amendments today. Today is a chance for our members and the citizens of Oklahoma to have a more open and honest government. Other state legislatures have passed similar rules. Other voters have passed similar legislation. Other state supreme courts have struck down the frivolous attacks and have affirmed ethics rules on gift bans, contribution limits and spending information.

“Citizens want a level playing field — not just for wealthy and connected interests or to wine and dine or contribute heavily to lawmakers. This is like an Oklahoma version of pay-to-play that should be struck down. Free speech is still free. All may talk to legislators, make logical arguments and good policy should follow. Policy should not be influenced by who has the biggest expense account. What do you think the people want? The current system creates an appearance of teaching a Pavlovian response. Perhaps a bobble or food or drink or a contribution before the ears open.”

The Chairman said, “Excuse me, sir. Please forgive me for interrupting. I want to be certain that we are talking about proposed Rule Amendment #2. Are you addressing that or is this a general statement that you are making?”

Glover said, “It was a general statement, but it talks about #2.”

The Chairman asked, “If you would, confine your remarks to proposed Rule Amendment #2 at this time. If you care to discuss another rule later on, I will recognize you again. But, right now the Commission would like to hear your comments about rule #2, please.”

Glover said, “We believe that a credit card or a check register is what is needed to suffice to Rule Amendment #2. And, it should be simple and easy for anybody to handle that.”

The Chairman said, “Thank you very much, sir. We appreciate your comments. Would anyone else care to comment on proposed Rule Amendment #2?”

Rep. Mike Reynolds

Representative Mike Reynolds [“Reynolds”] was recognized. “Thank you, Mr. Chairman. Again, I guess I am being repetitive, but I would encourage the Commission — I agree with Mr. Slater that this could become very burdensome at the time you are trying to do your campaign, and we have a lot of different burdens there, knocking on doors and all kinds of things — but, I would just encourage the Commission again to increase the limit. I think that you would be able to track — statistically I think I’ve shown before that you can track — about 85% of the expenditures by simply keeping track of transactions in excess of \$250. So, I would encourage the Commission, if possible, to run some statistical reports and see before you actually finalize this next month and see if an alternative might be to only report expenditures in excess of \$200 or \$250 or something of that nature — which is probably the kind of expenditures that the public is more interested in than the \$50 expenditures. I’ll leave it at that unless someone has a question for me.

The Chairman said, “Thank you, Representative Reynolds. You are always welcome here. Does anyone else have any questions or comments?”

Pettigrew/Slater

Pettigrew was recognized. “I just have a question to ask Mr. Slater. Do you see any way that we could amend this proposed rule to make it more palatable, make it more easy to comply with?”

Slater said, “Commissioner Pettigrew, there was a proposed rule amendment last year that created a number of specific categories that would be fairly easy for candidates to comply with that would also offer any citizen who wanted to review the reports an opportunity to know how the candidates or committees were spending money. I am trying to recall now. I think that proposed rule amendment died for lack of sponsorship. But, in any event, it combined the policy of the FEC for categorizing expenditures with some specific expenditures that are listed in the rules of the Ethics Commission today.”

The Chairman said, “Thank you, Mr. Slater. Are there any more questions or comments on proposed Rule Amendment #2?” There were none.

Rule Amendment #3

“Proposed Rule Amendment #3 was continued from last year. It

does not have a sponsor at this time. Does anyone have a comment or question?" There was none.

Rule Amendment #4

"Proposed Rule Amendment #4 would permit some corporate bodies to twice annually solicit contributions from employees. It has no sponsor at this time. We've had a member of a law firm from Tulsa who came before us some months ago and asked us to consider this rule." [Hughes said, "He is present today."] The Chairman asked, "Would you like to comment again?"

Drew Downing

Drew Downing ["Downing"] was recognized. "I would be more than happy to. I don't want to again rehash, as you said. We had a very lively discussion a few months ago about that. I would be more than happy to answer any questions. But again, this amendment that has been proposed is truly nothing more than bringing Oklahoma's rules in line with the federal rule which allows this twice yearly solicitation of non-restricted employees. It's not doing anything outside the scope of what the federal rules already allow corporations to do, and we're just attempting to bring Oklahoma's rule in line with the federal rule."

The Chairman said, "Thank you. We appreciate you coming from Tulsa again today. That's not a rehash. It has been some months since you appeared before us and presented that proposed rule."

Rule Amendment #5

The Chairman announced, "Proposed Rule Amendment #5 provides for an exception for charitable or humanitarian purposes when we describe or when we discuss what things of value would be. And, I have asked to be the sponsor of that rule. Does anyone have any questions or comments about that rule at this time?"

Hughes said, "Commissioner Pettigrew has talked about language that we would except [from the prohibition]."

Pettigrew

Pettigrew said, "Yes, I have been working with Caroline Dennis ["Dennis"] — Caroline, would you raise your hand — of the Senate staff on this. We don't know for sure if we want to make this an amendment to the current rule or a separate rule proposal to absolutely guarantee that children of state employees or legislators could receive scholarships to universities. There is a vagueness in our language which might prevent scholarship recipients if your parents are state government employees or officers. Caroline, would you like to, please tell them what has happened in Colorado and why we think we might need to address this."

Caroline Dennis

Dennis said, "Thank you. I was visiting with Commissioner Pettigrew in Ponca City, and we were discussing a situation that recently came up in Colorado with some of their restrictions. Their university system for a time suspended scholarships to children of state employees because of concerns about the ethics rule. It ultimately, as I understand it, the Commission ruled that that was acceptable. But, there was some confusion about the language, and Commissioner Pettigrew indicated that she was interested in clarifying that in this amendment or in one of the others."

The Chairman said, "I think that's wise, and I think that would be acceptable. It certainly would be to me as the sponsor of this rule. I wonder if you and Dr. Pettigrew could consult with one another and provide us a suggested amendment or an inclusion of some kind in this rule. Get it to us so we can look at it within the next couple of weeks before our next meeting."

Pettigrew said, "I did want to say that she has also worked with Marilyn Hughes, our Director, discussing what we need to do here."

The Chairman said, "I don't think any of us want an impediment to some child receiving a scholarship anywhere. I think we can all agree on that. Certainly, I would as the sponsor. So, if you could get something to us within the next couple of weeks, it would be helpful. [Dennis said, "Okay."] Does anyone else have any comments about that rule?" There were none.

Rule Amendment #6

The Chairman said, "The next proposed Rule Amendment #6 is a 'gift list' amendment. This has been proposed by representatives from Common Cause. We have discussed it several times, and I will sponsor it. I think I have already indicated my sponsorship of this, have I not? I intend to sponsor this rule if I haven't already done so. Is there anyone who would like to speak to this rule, either pro or con?"

Slater

Slater was recognized. "Mr. Chairman, thank you. I've been coming to Ethics Commission meetings every year since the Commission was created, and this is one of the strangest proposals I think I've seen. I can only view it in terms of my own personal experience. For 18 years I was in state government in Oklahoma. It didn't take me very long after I was in state government to realize that I needed to set some kind of personal policy with respect to relationships with vendors and others who were trying to do business with my agency. And, I simply have a personal policy of not accepting anything from anybody for any reason.

And, I say that not to commend myself but to make the point that I didn't have to sign anything that says that. I didn't have to sign a list. I didn't have to take a pledge. I didn't have to make a vow.

"I presume that members of this Commission and members of the staff don't accept things of value from lobbyists, and you do it because you just say no. You aren't going to do that. I don't know why we have to add yet another task to the staff that you say is overworked to maintain a list when all we have to do is follow the advice of a very well respected former First Lady, Nancy Reagan, and just say no. Thank you."

The Chairman said, "Thank you, Mr. Slater, for your comments."

Dr. John Wood

Dr. John Wood ["Wood"] was recognized. "Can I say something since I wrote this, and he did say some new stuff, so I think I should respond? I did write this amendment, and I was inspired. Representative Jason Murphey has a bill for a 'no gifts list'. And so, I talked to him about it. He is my Rep. And so, I decided to also go to the Ethics Commission for this. So, I want to mention a couple of things here that came up. One, if it's a personal policy, this is a transparency type of thing. So, if you have a personal policy on the no gifts list, just put your name on there, and it shows all the lobbyists that, 'Look, I have a personal policy, and I want you to know about it; so, don't drop off a gift in my office when I'm not there.' Jason Murphey has had that problem before, and that's why he is doing this bill.

"The second one, there is no sign involved. You don't sign in. You just say, Marilyn, put me on the 'no gifts list', and she would put you on there. It's a sheet, and lobbyists can look at it. The other one is 'just say no'. Is that enough? I mean, when it comes to drugs, it has been a policy, and we still have the drug war and we still have drugs. So, I don't think 'just say no' is quite enough. If you have a personal policy, and you want to make it public, that's how you do it.

"It's no extra work according to Marilyn. She has mentioned this is not going to be much more work. You just put a list up there. You add names on there. If you are a Representative or a public official and you want your name on there, it stays on there. Lobbyists can look at that and see who not to give gifts to. So, I don't think it's a lot of work."

The Chairman said, "Thank you Dr. Wood. I appreciate your comments."

Pat Hall

Pat Hall ["Hall"] was recognized. "My name is Pat Hall, and I am representing the Oklahoma Society of Association Executives today. It is an organization made up of most of the associations that have lobbyists at the State Capitol or come to their Capitol — be it the day for medicine or the day for agriculture. And, I absolutely want to join with Mr. Slater and I'll use my words, not his. I think this is one of the silliest proposals I've ever seen come before the Ethics Commission. You have debated very serious issues in the past.

"When I was head of the public employees association, I would bring 1,000 to 2,000 state employees here as their lobbyist. They would give gifts to the Legislature, and they don't look at a 'do not' list. But, if it is posted on Representative Murphey's door, or if it's posted on Senator Coffee's door or on the Governor's door, that seems to me to be the appropriate place for an elected official to post, 'Please no gifts.' To put it into the rules, to have this type of debate — it is a personal choice of an elected official if they are going to take gifts of coffee mugs. We've given balloon bouquets. I can think of numerous things that we have given. A little container of paper clips from the Public Employees Association.

So, I would just ask you today — and I know you have chosen to put your name on this — but, I would ask you to reconsider. Is this the appropriate place to make those types of decisions when you are faced with campaign committees and all of the other decisions that you are making today?"

Raley

The Chairman said, "Thank you, Mr. Hall, for your comments and your presence here today. If this is a silly rule, I will assume responsibility for it. It is certainly not the first time in my life I've done something silly. I will save my comments until next month when the Commissioners review, debate and vote. I personally think this is a good rule, or I would not have put my name to it. I think it is a win-win situation.

"I see no burden whatsoever upon, as Mr. Slater correctly said, an overworked staff. I think it would give the lobbyists an aid that they can consult before they call someone or present themselves in someone's office. They would know in advance that they should not be there for the presentation of a gift or something of that nature. I see nothing negative about it. I think it is a good rule.

“If you think it’s silly, I’m willing to accept that from you, sir, but I think that there is a real purpose behind this, and I’m going to ask my fellow commissioners to seriously consider it. Now, having said that, I’m going to reserve further comments until next month. Mr. Reed has something that he wants to say.”

Reed

Reed was recognized. “I would like to comment on the rule, please. My name is H.J. Reed. I am a registered lobbyist in the State of Oklahoma for ConocoPhillips. Mr. Chairman, I have some questions about your rule. From the lobbyists’ standpoint, how are legislators going to add themselves to the rule and remove themselves from the rule. Traditionally, when we have rules presented to this Commission, there is great detail. May I ask how members are to notify the Commission?”

Wood, Reed, Raley, Hughes,  
Amy Alden

Wood replied, “They just call.”

Reed commented, “I would hope it would be a little more than that as we saw a U.S. Congressman rather embarrass herself when President-elect Obama called thinking that it was a fake phone call. May I ask, Mr. Chairman, how — it’s not written in the rule — so, how are they going to notify staff to put themselves on and take themselves off?”

The Chairman said, “That is a very good question, and I think it is something that should be addressed and will be addressed. I think the simplest and most reasonable way to handle that is to publish a list of every elected official and place an asterisk behind the name of those who have elected not to receive any gifts. That way it can be published and the media publish it and any other forum here in the Capitol, and you and your fellow lobbyists can consult that list. If there is an asterisk behind the name, then you don’t go there. That’s it.”

Reed asked, “What if a member adds their name this week, but takes it off the list next week, how does he do that? And, how do you notify the lobbyists?”

The Chairman answered, “As I said, there will be a list published.”

Reed surmised, “So, the lobbyists have to go by the Ethics Commission office every morning to see whose names have asterisks by them.”

Hughes responded, “It will be on the website.”

The Chairman said, "It will be on the internet. The media, I'm sure, would publish it. It could be posted. I don't think, Mr. Reed, knowing your capabilities as I do, you would have any problem at all finding out who was on the list."

Reed asked, "Mr. Chairman, if you are going to post it on the website, which is what I heard Dr. Wood say and staff say, is that where the list is going to be found, is on the web?"

The Chairman responded, "Mr. Reed, I'm not going to get into the details this morning and take the time from these other people to get into details on how it is to be posted. It will be posted publicly in the manner in which I have just described or some other manner that may even be superior to that. But, it will be posted. You will have — and your fellow lobbyists will have — ample opportunity to see the list. I don't see any real problem here. I think we are creating something, a problem, that doesn't exist."

Reed said, "The reason for my question, Mr. Chairman, if I may. Last year I proposed a rule that simply created a list similar to this and was told in open hearing by staff that that was too much. That it was a bureaucracy we were creating. That it was very expensive for the application and development of that web application. If you are going to put this up on the web, why do the rules that were used again — a rule that I brought forward last year which was open disclosure for the lobbyists and open disclosure for 501(c)(3)'s — [why do] those comments not apply to this same rule?"

Raley replied, "Mr. Reed, I'm not going to get into a debate with you this morning and take up time. I appreciate very much your comments and I'll certainly consider them. I know my fellow commissioners will consider very carefully your comments. We will debate this, and we will vote on it next month, and you are welcome to come back next month to see the results of the vote. Does anyone else care to comment on this proposed rule amendment?"

Amy Alden ["Alden"] said, "I have one question. If you put your name on the list, would it be irrevocable? Would you have an opportunity to then change your mind, take your name off the list, and how would that be communicated to the lobbyists?"

The Chairman replied, "That's a good question. I suppose someone could put their name on the list and then have a change of heart

and say, hey I'm missing all of these gifts that my fellow legislators are getting, and I want to take my name off the list. I think that's a good idea, and we'd have to work out some kind of mechanics to take care of that situation. And I'm sure it could be taken care of.

Rule Amendment #7

“Proposed Rule Amendment #7. Commissioner Pettigrew has a rule which would clean up an existing rule and avoid some ambiguities and provide some clarification. Dr. Pettigrew, do you have a comment on rule #7? We've talked about it before.”

Pettigrew said, “We've talked about it — unless we have questions.”

Bingham/Pettigrew

Bingham said, “I applaud what you've done here because some of this language is just outdated and so forth. I have a concern about saying, as you propose in paragraph (a)(2), the Commission ‘shall’ initiate and continue programs, the Commission ‘shall’ publish and make available to the public. I'm for doing those things, but we all know the limited resources we have, and I'd just hate to put in a rule that it is mandatory that we do something. And, someone could even bring an action for mandamus which says, ‘You are a public officer, your rules say you shall do something, and you're not doing it.’

“I think underlying all of this is what you said — subject to staff and budgetary restraints. All I'd like to point out is I'm just reluctant to approve language that says we shall do all these things.”

Pettigrew said, “It is in the current rule, so we just moved it over. But, I think you've made a very good point. I encourage you to give me some alternate language, and let us consider that in January because I'm just going by what was there. But, you raise a good point.”

Bingham said, “You are quite correct. The ‘shall’, the mandatories are elsewhere in the current rule. You struck those out and replaced them.”

Pettigrew said, “This brings it to the forefront and lets us think about it, and that's good.”

Bingham said, “I think you state that these are our goals and this is our intent. It's very admirable, and it's part of this statute in Title 74. I think you and I can talk about some language that doesn't lock us in and make it mandatory that we do every single thing it says here. We'd like

to do it all, and we hope that we can, but so far as making it mandatory on us, we can probably change the language. That was my only comment.”

The Chairman said, “Thank you, Commissioner Bingham. Does anyone else have any comments?”

Sen. Randy Brogdon

Senator Randy Brogdon [“Brogdon”] was recognized. “I would like to just make a suggestion on that language if you keep it in there. Take out that last sentence, because I have realized over the last six years serving in the Legislature, we pass all kinds of laws, and we put in that ‘subject to budgetary restraints’. And, I kind of agree with the comments down there. I think these are very well stated goals, but if you feel strongly enough to make it a rule, leave out that language of budgetary restraints. Because, it is either a good policy or it is not a good policy.

“We have dug ourselves holes in the state legislature for many, many years with that language right there. We’ll pass it along, and often times we pass it thinking we are going to implement it or knowing we’re not going to implement it, but it makes everyone feel good. The spirit of the language I think is admirable. I mean — and I apologize; this is my first Ethics meeting, so I was hesitant to even say anything — but, I don’t know if that kind of language is in very many of your rules. If it is, I would urge you to reconsider every one of them and take that language out. Have openness and transparency in everything you do regardless of the cost. And that would be the most beneficial thing that the citizens of this state would expect.”

Pettigrew said, “I just want to say, thank you, Senator Brogdon. You’ve made a very good point, and we will consider that.”

Bingham said, “Mr. Chairman, if I may, I appreciate Senator Brogdon’s presence and his comments. And, of course, we’ve heard from Representative Reynolds. I would like for us to just acknowledge and welcome them. I do apologize. I didn’t see her earlier. But, we have in attendance here today the Oklahoma Secretary of State, Susan Savage. We would like to welcome her to the Commission meeting.

Hughes said, “Senator Sykes is also here.”

Bingham asked, “Who else do we have here? I’m sorry. Thank you, sir. Senator Anthony Sykes is also with us. And, if there is anyone else here, again, I do not know on sight many of our elected officials and

appointed officials, and we sincerely appreciate you all being here and your willingness to listen and participate.

The Chairman said, "Thank you, Senator, for those remarks, and welcome to the Ethics Commission. You are always welcome to come in. And, I think possibly those remarks should be included in this provision, and I would ask Dr. Pettigrew to give that some thought. And, next month when we consider and vote on this, we will have the benefit of your thoughts and your remarks.

"And, Secretary Savage, thank you very much for your presence here today. We're honored to have you here.

Rule Amendment #8

"Proposed Rule Amendment #8 is another of Dr. Pettigrew's rules."

Pettigrew said, "This is another clean up section where for a while we had different rules on gift limits for state employees and state officers. And, this just moves the two that we are saying the same thing into one section.

The Chairman said, "Thank you, Commissioner Pettigrew. Does anyone have any comment about that rule?" There was none.

Rule Amendment #9

The Chairman said, "Let's move on to proposed Rule Amendment #9. We had quite a bit of discussion on this at our meeting last month. And, as I say, we have received a great deal of communication from private citizens and from representatives of the State Chamber of Commerce. Dr. Wood is here again. Dr. Wood addressed us at our meeting in Ponca City and then favored us with a copy of his remarks, which we've all read and studied and considered. I know that we have some other people who are here today who would like to speak to this, and if you have a spokesperson for your group, I will recognize that person at this time."

Glover

"David Glover with Common Cause. I shouldn't have spoken to this when I made my comments earlier. So, I'll just give a basic overview. Many legislatures have passed similar rules like this. The voters have also recommended rules like this. State Supreme Court's have already upheld rules just like this. I think the citizens overwhelmingly like a level playing field and the perception of a level playing field, and that free speech is still free, all may talk with legislators and make logical arguments, and good policy should follow.

“Policy should not be influenced by who has the smallest expense account or the biggest, but good public policy results from logical efforts. And, that is what Common Cause, and a number of our board members who are here, are in support of.”

The Chairman said, “Thank you very much, sir.”

Hall

Hall was recognized. “Pat Hall here representing the Oklahoma Society of Association Executives. In July the new rule went into effect lowering the limit from \$300 to \$100. We’re educating the associations and the lobbyist principals, and we would ask that this Commission at least let that rule proceed for a time period to evaluate if there are any problems with that rule. We’ve not noticed any problematic type of situations in Oklahoma. The association community understands the current rules; we’re working under those current rules. And, then to come back again and continue shifting this is a little troublesome. We don’t see what is broken.

“So, we would just ask the Commission, if you want to review this later on after there are some — if you have knowledge of — prior knowledge of problems. We’d be happy to sit down and address those problems with you. But, we would ask the Commission to allow the current rules to stay in place for at least a year and then maybe come back and evaluate those current rules to see if there were problems with those rules.”

The Chairman said, “Thank you, Mr. Hall. We appreciate your comments, and you are always welcome at this committee. Let me ask you one question, Mr. Hall, if I may. You say that perhaps you have some time available to reevaluate after the passage of some six months. I think it has been six months almost since this became effective. As you know, twice a year we get a report on things of value that have been presented by lobbyists to elected officials. Would you consider that report a valid source upon which we can base an evaluation?”

Hall said, “Mr. Chairman, I haven’t given it much thought. But, I think it would be only one tool. I think one of the goals of this Commission was to get more participation. You are getting the participation. I think the next would be that maybe there would be either a public discussion made up of representatives of the different organizations, so that we would have a better understanding, representing the association community that retains lobbyists. We would have a better

understanding of what's broken or what's wrong — what we're trying to fix with the “no cup of coffee” rule.

“I think you would use maybe as a tool the reports. Maybe we should look at who is not reporting. Let's look at what benefits not having a lobbyist and not being a lobbyist principal has. I think that this may be caught up in some other concerns that we have a broken system. And, we don't have a broken system. And, I've said it before in front of this Commission. I believe that the no-contingency rule is the strongest rule in the statutes and in the rules that prevents a lobbyist in Oklahoma or a lobbyist principal from bribing, misbehaving or any terms you want to use.

“I do think that your report is a tool. We would be happy to sit down. You do have our attention. And, we would be happy to sit down and discuss this further. But, to now go all the way to the ‘no cup of coffee’ rule we think is fairly drastic.”

The Chairman said, “Thank you, Mr. Hall, for your comments. We appreciate you being here, sir.”

Hall said, “Thank you, Mr. Chairman.”

Susan Harris

Susan Harris [“Harris”] was recognized. “I am from the Tulsa Metro Chamber of Commerce. I just really want to back up what Mr. Hall said. You haven't gotten the first report on the \$100 period. I think you need to let us see how that works. You need time to analyze it. Certainly, a year is not unreasonable. Full disclosure seems to me to be the way to achieve what you are trying to achieve. And then, voters and other interested parties can see exactly who is trying to talk to legislators.

“And, those reports are the way that people will be able to track what is going on in the state. Going to this kind of rule of ‘no cup of coffee’, really puts a burden on everyone who is trying to talk with their legislators in their home towns throughout the State of Oklahoma. Not everybody can be in Oklahoma City walking the halls of the Capitol from January through May, Monday through Thursday. And, when we try to access our legislators when they are home on weekends, a lot of times it has to be done over a business lunch or breakfast because they do have other jobs. And, we certainly respect that and we respect their time. I think it really is cutting off access for the majority of the people in Oklahoma. And, we appreciate your consideration of that.”

The Chairman said, “Thank you, Ms. Harris. Thank you for coming again to our meeting. We were pleased to have you with us in Ponca City. Your remarks are very well taken. As you are probably aware, there is currently a rule in place — and has been for some time — which makes exceptions for events promoted and sponsored by chambers of commerce. Are you aware of that?”

Harris said, “We are aware of that, and I think the distinction would be an event versus a business lunch.”

The Chairman said, “Thank you. We appreciate you coming today.”

Wood

Wood was recognized. “I have made some extensive comments, but these comments came up from all of the comments in the newspapers and today. The first one is — and it’s just been brought up — that we have a broken government. This is one of the problems. Well, there is a perception that we do have a broken government. There is a lot of distrust out there, and it is because of gifts in just one of the systems.

“About 75% of the people think lobbyists have too much influence. Also, this is a legislature that is the third highest paid citizen legislature in the country. That means they do have other jobs because they meet only from February 4 through May 30. If you rank them compared to professional legislatures, meaning they run year around, they would beat Florida which does run year around. They only make \$30,000. This legislature makes \$38,400.

“There are exceptions, and we just mentioned this — (S) and (G) do make exceptions if you invite all the legislators or if they are invited guests to a rotary or a chamber. There are exceptions for this. Seven states do ban gifts, but they all have exceptions. And, that’s kind of the thing we would have to work out. So, maybe you have a business lunch as part of that amendment.

“Third, if I give you a gift, and I love you and I know you are a part of the family, I don’t expect something back. But, if I don’t know you, I am buying access. Okay. I am buying access. The price of access for the average Oklahoman is a bit steep. If the average Oklahoman who goes to a legislator has to buy lunch for access because it’s freedom of speech — then you tell me if the average Oklahoman would have to buy a football or a meal to get access to a legislator. If that’s the case, there is a problem — if this is a quid pro quo type of thing.

“It’s the bottom line. Businesses wouldn’t give funding to lobbyists if it didn’t work. Boards and commissions have been brought up recently. I think it was in the Oklahoman today. If you serve on a board or commission — and I used to serve on a couple of city level ones; I did not go on them so I could get a free lunch — they didn’t say if we have this ban, people won’t be part of this board or commission. But, if you are part of the board or commission, you don’t go because you are going to get a free lunch.

“Also, it was mentioned last time that if we have a ban, they’re just going to flaunt the law, they’re just going to go under the table. Well, that is, by the way, breaking the law. It doesn’t make it right just because people will flaunt it. Finally, we should all have equal access. And, we shouldn’t have to buy gifts to gain access. If it takes a gift to gain access or to use my first amendment rights, we shouldn’t have these public officials in office in the first place.

“Most people I have talked to are angry that our legislators are getting gifts. They didn’t realize they get gifts. The people who are for gift-giving tend to be lobbyists who give the gifts. The citizens I talked to . . . in fact, at the meeting in Ponca City after I spoke, I had a citizen in the corner say, ‘Thank goodness you talked about this and you stood up for me.’ And so, I am doing this for him, and I am doing this for other citizens who do not have a budget to buy gifts for legislators. And, they have — you know, lobbyists are great and they have wonderful information about their area — but citizens also are great because they have important information about their life and the troubles they have to deal with.”

The Chairman said, “Thank you very much, Dr. Wood, for your comments. You are always welcome.”

Slater

Slater was recognized. “Mr. Chairman, if I may, I’ll be very brief, and I won’t cover ground I’ve already covered. If there is a perception problem, then I would suggest that perhaps that perception problem is because of reports that people have given that are based on possibilities and not the facts. And, I think this Commission ought to consider the facts and not theoretical constructs as it makes these rules.

“If you are looking for comparability, Mr. Chairman, on the expenditures under the new rule versus the old rule, you’re not going to have that, I think, until July of 2009 because that will be the first report that you’ll have with the \$10, not \$50 reporting threshold. And, it is

absolutely predictable that you're going to have greater expenditures reported because if you lower the threshold from \$50 to \$10, you're going to get all of those expenditures between \$10 and \$50, that weren't reported under the old rule, reported under the new rule. So, you are not going to be able to evaluate until the reporting date of July 2009.

“And, while we are talking about facts, I've been calling this the \$2.00 rule because we've seen accounts of theoretical constructs that say the current rule allows lobbyists and lobbyist principals to spend millions of dollars on the legislature. Well, I believe the reported expenditures in July of last year that triggered the concern over the rule were \$208,000. You divide that by the number of lobbyist principals, 687. You get a total of \$303 per lobbyist principal. If you divide that by members of the legislature, that's 149, and I think most of the expenditures were reported on members of the legislature, you get an average expenditure per legislator of \$2.03. Thank you.”

The Chairman said, “Thank you, Mr. Slater. Does anyone else have any comments about this proposed rule?”

Bingham

Bingham was recognized. “I probably ought to wait and say this in January when we vote because, if I say it now, I'll probably get a bunch of unhappy emails and calls. But I'd like to offer a little historical perspective. We used to have the annual limit at \$300. Isn't that what we had before we lowered it to \$100?”

Hughes answered, “... for elective officers.”

Bingham asked, “Was it higher than that before the \$300? “

Hughes said, “No.”

Bingham continued. “We had extensive public debates and discussions as to whether or not to lower that \$300, and I thought it was one of the best. I was fairly new to the Commission, and I thought it was one of the best public policy discussions that I've been around. And, we made a judgment call that in some instances there had been abuses — that it wasn't widespread.

“We didn't have a culture of corruption. We just thought that, because of certain kinds of gifts being given that were up around the \$300 mark, those would be considered expensive gifts, and it troubled us from a public policy standpoint. And so we voted, and I believe it was

unanimous to lower the annual maximum from \$300 to \$100. I say this not because I was part of it, but I think that's a pretty historic step in terms of campaign and ethics rules in Oklahoma.

"It isn't zero, but it is \$100. And, we haven't had that in place very long. I don't know that it's the best that we can do. Maybe we ought to lower it. Maybe we ought to increase it again. But, we haven't had that in place very long, and we heard all sides of the debate when we were considering lowering it to \$100. And, many of these same arguments, they've been raised again in the current proposed rule.

"But, I'm strongly leaning towards leaving the current maximum of \$100 annually alone. I think it focuses on meals — not extravagant meals, not \$250 bottles of wine meals — but literally lunches and dinners or casual, rather modest meals where folks get together and talk. And so, my inclination at this point is to leave it where it is."

The Chairman said, "Thank you, Commissioner Bingham. We all profit by your comments and by your wisdom. And, as you correctly said, we will discuss this among ourselves at our meeting in January and then we will vote.

Rule Amendment #10

"Proposed Rule Amendment #10 has no sponsor as yet. It would require disclosure by the Ethics Commission of complaints that are referred to some other prosecutorial authority. No sponsor has been designated yet for this rule. Is there anyone who would like to speak to this rule?"

Jeff Packham

Jeff Packham ["Packham"] was recognized. "My name is Jeff Packham, and I am the legislative services coordinator for the *Journal Record*. This rule is really designed to bring things in line with what a private citizen would go through. Although we are talking about different types of allegations, I just think that, with a private citizen, they are held to a different standard than their elected officials. And, I think that this rule would help kind of bring things in line."

The Chairman said, "We appreciate very much your comments, sir. Thank you for being here. Does anyone else have any comments?" There were none. "However," the Chairman said, "I will have this comment, and I don't know whether I brought it up before or not. Commissioner Bingham and I share a lot of things in common. Both of us are former prosecutors. And, in that role we dealt with the legal

concept of due process and probable cause. Those are legal phrases that mean specific things.

“In other words, a violation of a rule of ethics may or may not be also a violation of the Oklahoma Criminal Code — a decision a prosecutor has to make. And, there are different priorities and different categories and different criteria. And so, it would be — I’m speaking for myself now; I can’t speak for the other members of the Commission — I have some hesitancy about approving this rule because I can see potentially a prosecutorial authority to which we had submitted information having some problems if all of the allegations and respondents had been disclosed to the public before he had an opportunity to determine whether or not there was any probable cause. So, from that standpoint, I have some problems. But, I appreciate your comments.”

Packham said, “I think that we have seen some cases where some of this information has actually made it to the public. And, I really haven’t seen where there has been any hindrance — where there has been a leak or someone has talked about what the allegation is. So, I think there are some examples where you are able to look at and see where this has been a concern to the public.”

The Chairman said, “Thank you for being with us here today. At this time we have been in session for over an hour, and I think it might be a good time to take a short ten minute break.”

After the break, the Chairman resumed. “We will continue on with the discussion of the rules. As I have asked before, we don’t want to rehash something that we’ve already talked about in the past. So, if you would, confine your remarks to those matters that are new arguments that we need to consider.

Rule Amendments # 11 And  
#12

“The next one has to do with proposed Rule Amendments #11 and #12. Representative Reynolds has requested that we consider those. Mike, you were with us at Ponca City. We heard your remarks then. If you have something new that you want to give us, fine. If not, we have already heard you speak to this.”

Reynolds/Slater/Brogdon

Reynolds said, “No, Mr. Chairman. I just hope that you’ll sponsor it for me.”

The Chairman responded, “Thank you, Representative Reynolds.”

Slater was recognized. “I have a question about proposed Rule Amendment #11, and it goes to how it works. With respect to the contributor statement, let’s just assume for purposes of illustration that I’m making a contribution to Representative Reynolds’s campaign, and I give my contribution to you to take to him — the date the contribution was tendered to the payee. Well, the payee is going to be Representative Reynolds’s campaign. If you then put the check in your pocket and walk with it for 11 days, has the rule been violated, and who violated the rule?”

The Chairman asked, “Do you understand the question?”

Reynolds answered, “Yes I do, Mr. Chairman. I understand it quite well. As a matter of fact, that is specifically one of the reasons I proposed this rule. I believe we call it bundling. Sometimes checks are tendered, and they are given to one particular individual who amasses a number of checks. When it is convenient, he then gives them to the candidate. This rule will effectively mean that the check goes from the person or the entity cutting the check directly to the candidate or the committee — cutting out the middlemen where they can not accumulate a bunch of checks. That’s exactly the effect that I’m trying to have here.”

Slater said, “If that is the effect, I would suggest that the Commission simply prohibit transactions through third parties. See what impact that has on fund-raising for political campaigns in Oklahoma. So, the contribution has to go directly from the contributor to the candidate, and see how much money the candidates can raise that way instead of going this circuitous route that has that impact.”

Reynolds said, “Mr. Chairman, I would encourage Mr. Slater to offer that as a policy next year because this rule has an additional effect. If someone writes a check to me — as I already... I don’t particularly want to rehash that, but if you don’t mind, bear with me for just a sentence or so, I will — if someone writes a check, puts me on their campaign report and never tenders the check to me, I can’t defend it. I can’t say I sent it back because I never even got it. And yet, I show up on their campaign report. So, this rule also solves that scenario as well as the one that Mr. Slater presented. So, it’s a doubly good deal.”

The Chairman said, “Thank you, Representative Reynolds.”

Slater said, “I have a comment on proposed Rule Amendment #12. I ask the Commission to consider the application of Rule #12 to a situation in which a member of the Legislature, for example, is term

limited. He or she has been elected to his or her 11<sup>th</sup> and 12<sup>th</sup> years in the Legislature. Six months after that election, that candidate has to close that campaign under this rule, as I understand it, which means that there's no way, if they've got a debt at that time, to deal with that debt. There's no way to pay for non-reimbursed expenses of holding the office without asking the candidate then to engage in a sham campaign.

"I'm not even sure how that works. If the candidate then files another statement of organization for an office that he or she did not intend to seek so that they can keep their campaign open, I don't even know if that works for non-reimbursed officeholder expenses because it would be a different office. The current rule was put in place, it is my understanding, for primarily candidates serving the longest term of office in Oklahoma which is six years. Corporation Commissioners serve terms of six years. And, if there is a problem with that, I'm not aware of it. I think there is a problem to be created if this rule were adopted."

The Chairman asked, "Representative Reynolds, do you want to respond?"

Reynolds said, "Yes I will, but I think Senator Brogdon had a question, and I might be able to respond to both of those with the Chair's permission."

Brogdon was recognized. "Thank you, Mr. Chairman. This may go to Representative Reynolds. My question is, serving in the Senate, I have a four year term. So, my question is, would I have to close my account the first six months of the my last term or are you talking about the last six months of my fourth year? Does that make sense? In other words, am I going to have to close my campaign account six months after I am re-elected for my last term and not have a campaign account?"

Reynolds said, "Mr. Chairman, yes, I think Senator Brogdon would have to do that. And, I apologize for inviting my friend to come today since he pointed out a flaw in my bill. So, this definitely needs some work on it. What I was trying to accomplish is exactly what Mr. Slater alluded to. We don't want someone having a campaign committee raising money and then rolling it into another committee and effectively double dipping.

"I can recognize that this particular rule would definitely put a crimp in someone that was term limited that didn't intend on running in the future since they've got to close their campaign account. If they are

a Corporation Commissioner, they'd have five and a half years with no campaign account to do contact or anything else. So, the rule would not work as it's currently written. That's why we have these discussions so we can learn those kinds of things."

The Chairman asked, "Are you telling us, Representative Reynolds, that you want to massage this a little bit before we consider it?"

Reynolds answered, "Yes, sir."

The Chairman asked, "Are you going to withdraw it for the time being?"

Reynolds answered, "I think it would be virtually impossible to have something provided to the Commission by next month that the public might have the opportunity to argue — not argue, I want to say, debate and discuss. I'd be happy to consider doing that if it were possible."

The Chairman said, "You can withdraw it without prejudice. You can always resubmit it."

Reynolds said, "I think I will do that at this time. Thank you very much."

Reed/Reynolds

Reed was recognized. "May I go back to proposed Rule Amendment #11. You moved on before I could get recognized. I have a question. I represent a political action committee, that is, the checks are physically written outside of the State of Oklahoma. There are times that I put in a request for political action donations and get checks and not get them for some period of time. We traditionally don't report until the contribution is given. And, I think that's what Representative Reynolds is really after.

"Rather than saying 10 days, would Representative Reynolds be amicable to some language that says no contribution can be reported unless it's given? I think that's the purpose of his rule. But, I want to make sure, Representative, because I don't think — I think what you don't want is somebody who in the last week cuts a bunch of checks, reports it and then doesn't given them for six months. That's not fair to you.

“But, if you say that they can’t report a contribution until the cycle that it is given, then that cures both ills with a workable rule. Does that make sense? That is a question.”

Reynolds asked, “Mr. Chairman, should I address that?”

The Chairman answered, “Yes, briefly, if you will.”

Reynolds answered, “Yes, sir. That does go a long way towards curing — and, in fact, I had a discussion with the Director about the possibility of doing that. and so possibly we can come up with some language by next month we could get that corrected and do that. It’s just the big thing I’m trying to cover is I don’t want them reporting it if they haven’t tendered it to me, and basically, most reports aren’t due for 30 days after.”

The Chairman said, “If you want to redraft this, certainly you have that permission and authority as long as you get it to us well in advance of the next meeting.”

Reynolds answered, “Yes, sir.”

The Chairman said, “Thank you very much.”

Rule Amendment #13

Proposed Rule Amendment #13 is an amendment that Dr. Pettigrew has presented for our consideration. Jo, we talked about it at some length last month. Do you have anything further that you would like to add?”

Bingham/Pettigrew

Pettigrew said, “I’ve been working with staff, and I’m not sure at this point whether we can make a language change that will make it more acceptable to the staff or what I need to do with it. But, I want to leave it on the books for us to continue talking about. Maybe I’ll make a decision before January of whether to continue it or continue it on to the next year.”

The Chairman said, “We’ll leave it on the agenda.”

Bingham said, “If I may, staff has expressed its concerns, and staff has concerns, and that is definitely going to be a concern to me, but putting aside administrative difficulties for a moment, does anyone have any comments, objections or criticisms or whatever of the public policy involved here in proposed Rule Amendment #13? Jo, on Subsection (d)

in the first part, where you have stricken a requirement that a contribution has to be provided to the treasurer or deputy treasurer no later than five days after receipt, is that just too short a time frame? Is it so short that it just creates a lot of practical difficulties for candidates and committees?”

Pettigrew answered, “Based on my experience, yes, it does. I’ve been involved in enough campaigns to know that five days is a very fast turn around period. And, it relates somewhat to what Mr. Reed has said. If your check comes from some other entity — maybe not even in the same state, mail time, so forth — it just, I think, it’s almost like a gotcha thing. If we can say, oh, you didn’t get it in five days, then there is a problem — when maybe it was all done with the best effort possible.

“I’m willing, if you think it would fix it, to just change that from five days to something longer and not actually strike all of that language. Now, we haven’t talked about that with everybody involved. I would like to keep looking at it.”

The Chairman said, “As always, as we all know, anything that involves an administrative effort upon the part of our staff, we need to determine what impact, if any, these rules may have upon our overworked staff.

Bingham said, “On the second part of this, a candidate who literally doesn’t draw an opponent, the one who files under Commissioner Pettigrew’s 257:10-1-13(c), would not have a reporting requirement. I think the staff expressed some real concerns last time about the effect on a number of aspects of its operation, but I’d like to know if somebody has either a philosophical or a policy problem or maybe thinks that’s a good idea or a poor idea — that a candidate who is completely unopposed — I’m not talking about just the primary — nobody else files for the office, under this proposed rule.

“The wording may need to be clarified. He or she — the only one who files — would not have to file a final contribution and expenditure report until everybody had to at the end of the, I guess it would actually be the end of the reporting period, the end of the quarter, but you’d have until the first of the year following that general election — good idea, poor idea setting aside again our staff’s concern — and, believe me, when I say setting aside, I don’t mean we are discounting or ignoring it.

Slater said, “I think it’s a good idea.”

Pettigrew said, "I think you've raised an important point. We've discussed it among Commission members and staff, but we really haven't had much input, if any, from the public on whether they would like this if we could do it. So, thank you, Mr. Slater. I would encourage anyone else to talk about it if you have something to say about the proposal — if anyone needs it clarified as to what it does.

Loy said, "Patti does."

Bryant said, "I made my comments last time, and I stand behind them."

The Chairman said, "You've already expressed your concerns and we've noted them."

Bryant said, "Thank you."

Rule Amendment #14

The Chairman said Jo, do you want to talk about proposed Rule Amendment #14?"

Pettigrew answered, "Let me find it here. Oh, yes. I will sponsor this if it meets with the Commission's approval. We've had a lot of discussion of late and in the newspaper about what actually makes a local central committee or a county committee or a congressional or an affiliated. And, since there seemed to be a lot of confusion as to what was an affiliated committee, it seemed the logical way to take care of that confusion was to clarify it in the rule. And so, with our Executive Director's help, we have developed this language which I think will take care of that problem of confusion as to what can be considered an affiliated committee."

The Chairman said, "Thank you, Commissioner Pettigrew, and thank you for your hard work in preparing that. I think that concludes our public discussion on the pending rules."

Approval of Minutes

Next was consideration of whether to adopt the minutes [both open and closed sessions] of the regular meeting held November 14, 2008. The Chair called for corrections or amendments to the proposed minutes.

Hughes said, "I have some corrections. On page 3, the third full paragraph, line 5, the line begins with '...to say a little more about the facilities that...' Instead of 'are you in', it should be '...you are in'. So,

change the order of 'are you'. On page 29, in the third full paragraph, the last three lines, the line begins 'take the check to the meeting or waiting for the right opportunity...' Change 'where' to 'when'. '...it's not inconvenient and not imposing or some...' Change to 'other reason' instead of 'other theory of'. Continue with '„,why they are not giving them something.' On page 39, on the third to the last paragraph, next to the last line, the last word should be 'changes' instead of 'change'. And on page 18, the fifth line from the top, change '...value what people get you...' Change it to 'give you'."

The Chair entertained a motion to adopt the minutes of the open and closed sessions consistent with the amendments suggested by the Executive Director. Pettigrew so moved; Bingham seconded the motion. Roll was called for purposes of the vote, and the motion passed unanimously.

Ratification of  
Expenditures

The Chair then called for consideration of agency expenditures for the period beginning November 1, 2008, through and including November 30, 2008.

Hughes reported, "This will be the final report on FY-2008. We tried to explain that in the administrative report. If you have any questions, Patti can answer them."

Bingham moved to ratify the expenditures. Loy seconded the motion. Roll was called for purposes of the vote. The motion passed unanimously.

Consideration of FY-2010  
Budget Request

The next item on the agenda was consideration of the Ethics Commission Fiscal Year 2010 Budget Request.

Hughes said, "We have nothing to add at this time."

Pettigrew said, "I will ask our Director, do you have any update on when you will be presenting this to the Legislature?"

Hughes said, "We have not been notified yet. We will notify you immediately, and we certainly welcome anyone to attend—all of the Commissioners."

Pettigrew said, "Thank you."

Administrative Report

The next item on the agenda was the agency's administrative report. Hughes reported there were no changes or additions.

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 13 were made confidential by law. It was the advice of the General Counsel that the Commission go into executive session at that time for the limited purpose of considering those matters.

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

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

Open Session/Action on  
Same

When completed, the "closed session" sign was removed, and observers returned to the room. The Chair called for a motion to go back into open session. Loy so moved. Bingham seconded the motion. Roll was called for purposes of the vote. The motion passed unanimously.

Pettigrew moved that IV-2007-008 be continued; that IU-2008-006 be dismissed without prejudice; that IU-2008-007 be dismissed; and that IU-2008-008 be continued. Loy seconded the motion. The Chair asked if there were any other questions about the motion that was pending. There were none.

Roll was called for purposes of the vote, and the motion passed unanimously, with Bingham disqualifying and abstaining on IU-2008-006.

New Business

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

Next Meeting

The Chair called for discussion on setting the January Public Hearing and Regular Meeting. The date was set for Friday, January 23, 2009 at 10:00 am.

Adjournment

The Chair 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 Bingham so moved. Pettigrew seconded the motion. Roll was called for purposes of the vote. The motion passed unanimously.

The Chair then declared the meeting to stand adjourned.

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MARILYN HUGHES, Executive Director

Approved On Behalf Of The Commission:

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JOHN RALEY, Chair

MH/pb