

MINUTES OF PUBLIC HEARING AND SPECIAL MEETING
of the
ETHICS COMMISSION
STATE OF OKLAHOMA
held
JANUARY 30, 2009

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 forty-eight (48) hours in advance with the Office of the Secretary of State, a public hearing and special meeting of the Ethics Commission of the State of Oklahoma ["Commission"] was called to order on Friday, January 30, 2009, at 1:00 pm. Chairman John Raley ["Raley"] presided over the meeting which was held in Room 419C, 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*; Dr. John Wood, Rose State College and Common Cause Oklahoma; Lee Slater, attorney; Michael McNutt, *The Oklahoman*; Shawn Ashley, *Capitol Network News*; Caroline Dennis, Senate staff; H.J. Reed, lobbyist; Pat Hall, lobbyist; Representative Mike Reynolds, Jason Doyle, *OETA*; Amy Alden, House staff; Janice Francis-Smith, *Journal Record*; Tom Prince, attorney; Bob McKinney, RCB Bank; Michael Cross, *KOSU Radio*; Jim Hopper and Greg Gawey, Oklahoma Restaurant Association; Cheryl Purvis, House staff; Lynn Howell, Common Cause Oklahoma; and Myrna Kay Smith, lobbyist.

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 January 30, 2009 Special Meeting of the Ethics Commission*, incorporated by reference in this agenda as fully set forth in the document.

Public Comment on or
Request for Constitutional
Rule Amendments

The Chairman announced, “The first item on the agenda today has to do with the approval or disapproval or the discussion of pending rules. For those of you who may not be aware of the procedure —I think most of you have been here and you are—it goes thusly. Over the last several months, a number of rules have been proposed. Some of them have sponsors, some of them do not.

“We’ve had a great deal of input from various groups — individuals, legislators, members of the lobbying community—who have shared their thoughts and concerns over the last several months. We have profited greatly by that information that has been passed on to us, and we’ve considered it. The meeting today, however, will be essentially a discussion among the commissioners of these various rules that have sponsors.

“I will be calling upon the sponsor of each particular rule and ask him or her to give an opening statement and then the four of us will discuss the rule, the merits and so forth, and then we will vote up or down or take whatever action the Commission feels appropriate on each individual rule in order.

“Now, in addition to that, however, there are two proposed rule amendments, #15 and #16 that have been proposed by Dr. Pettigrew within the last few weeks. As you know, the law requires us to have a public hearing—at least one public hearing before we can take action on a rule. Because these proposed rule amendments have just been submitted to us for consideration, this meeting today will constitute that constitutionally required public hearing for proposed Rule Amendments #15 and #16.

“We will have a public hearing on those rules first. I will ask Dr. Pettigrew to give an opening statement, and then we will invite comments from those of you present. After we’ve had comments on those rules, we will go back and, numerically starting with proposed

Rule Amendment #1, I will ask the sponsor to give an opening statement and then the members of the Commission will discuss that rule, and we will vote on that rule, up or down, or take whatever appropriate action is necessary and then move on to the next one.

“Does anyone have any questions about the procedure before we move on?” There was none. “With that in mind then, Dr. Pettigrew, if you would like to address your proposed Rule Amendments #15 and #16, and then we will take comments from the public.”

Proposed Rule
Amendment #15

Vice Chair Pettigrew said, “Thank you, Mr. Chairman. Would you like for me to discuss both of them first or discuss the first and let comments occur?” The Chair answered, “...whatever is convenient for you.”

Pettigrew said, “ I think we’ ll just do one at a time to be sure that we have the input that people would like to give. Proposed Rule Amendment #15 reduces the amount that can be brought into a campaign from \$20,000 to \$10,000 and says that, at that amount and above, you have to file electronically. We are living in the internet age, the electronic age, the computer age. I think we need to all get together and try to make it work where we don’ t have to have anything entered by hand.

“However, to be sure that we can move in that direction, instead of going from \$20,000 to \$0, this proposal is to simply bring it down to \$10,000 —meaning that campaigns that have between \$10,000 and \$20,000 will now be required to make their filings online. If the staff has anything to add to that for clarification?”

The Chairman said, “Let’ s first ask, do any of the commissioners have a question for Dr. Pettigrew?”

Bingham was recognized. “Commissioner Pettigrew, I think I heard you say that this threshold is \$10,000 in contributions. I noticed that the language actually says \$10,000 in contributions or expenditures. So, financial activity that exceeds \$10,000 will trigger this requirement of internet filings. Is that right?”

Pettigrew said, “Yes.”

Loy was recognized. “Mr. Chairman, Ken Elliott, a former member of our Commission, had pretty strong feelings about amendments being offered on the day they were voted on, and this one seems pretty innocent, but it does seem to me that there is a reason that we may have established two public hearings. And, we have had those in November and December, and it has given people an opportunity to read this and say, ‘Does this affect me and I may want to have a comment, or we may want to put it off a year.’”

“And for that reason, while this one seems to be a positive amendment, we all seem to be concerned about the Legislature coming in at the last minute and changing rules and laws that affect us when the people don’t really have a good understanding of what’s going on. I just want to make sure that we are not putting somebody in a box here where they can say, ‘I didn’t know that that was going to be changed, and I would have protested.’”

“I don’t know why, but there is always a protest of something. If you are comfortable with that, I am. But, I do think that we ought to, except in unusual circumstances, have our amendments ready in November and December and then voted on in January.”

Pettigrew said, “I think you make a good point, Commissioner Loy. However, I asked the Executive Director in a public meeting—I believe it was in November—how late could we present rules to be considered for the new year, and she said the January meeting. So, I took that to mean that we could bring them at the January meeting.

“Also, an impetus for bringing this was a hearing that we had before the budget committee of the House of Representatives. This discussion appeared on some of the questions that they asked of us. Could we do this? And, I thought, you know, that’s probably a good idea, and I even talked to our Executive Director about it, and I think that because of those two things—particularly having to wait another year to present a rule means it’s 18 months before it would go into effect—even though I think you make a good point, and I will try next year to do better, I’m going to push for the acceptance of the rule.”

Loy asked, “May I respond? The rules just say a public hearing. It doesn’t say when. And, it’s by precedent that we have this November and December meeting, and there’s also precedent for having rules adopted at this meeting, so it’s not something that we

object to. It just seems to me that, for transparency, we ought to try to get those done no later than December.”

The Chairman announced, “I’ll call at this time for comments from the general public. Is there anyone who would like to speak to this rule?”

Lynn Howell [“Howell”]

Lynn Howell was recognized. Howell said, “I am Chair of Common Cause Oklahoma, and I would like to speak in support of Dr. Pettigrew’s proposal. Commissioner Loy’s concerns are very well taken, and I would think that if a proposed amendment were particularly complicated, it probably would be best not to get it on the docket at this point. But, this is fairly simple. This gets us closer to our goal of having all records online eventually — closer to the goal of transparency.

“So, for that reason, Common Cause would support it. I heard an interview the other day. They asked this guy what his favorite color was, and he said transparent. I think that’s what our favorite color ought to be here. So, we would support this amendment. Thank you.”

The Chairman asked, “Does anyone else have any comments or concerns, questions, about this rule?” There were none.

Proposed Rule
Amendment #16

Moving on to proposed Rule Amendment #16, Pettigrew said, “Some of the things that we said — and probably Commissioner Loy would have the same question, and I respect his opinion very much — this next one is also one, though, that came up in discussions with the staff and then also in the hearing before the House Budget Committee about the necessity of sending out notices by first class mail that you have a report due.

“I’m not saying that we need to change that policy right now because I’ve talked to staff about whether or not it would actually lessen their work or in some cases perhaps increase their work, but I think we should be open enough for discussion that we can have the option. All this rule change does is change it from a ‘shall’ that you have to send out these first class notices to an option, you ‘may’, which gives the Ethics Commission at least another year, maybe longer, that they could be working on this and see if they want to do it.

“It would not require any change in our procedure. It would just allow the option. As I said on proposed Rule Amendment # 15, if we don’t do it now, then it will be 18 months before we could possibly do it, and that’s a long time in legislative life. So, I’d like us to change the mandate. There are other options that I think we all hope can work. I can appreciate email updates, maybe even email mailings to everyone connected —perhaps an email letter to everybody or an email publication. I just think that requiring first class mail —and the hundreds that have to be sent out, this month in particular —is something that we need to look at. Thank you.”

The Chairman asked, “Do any members of the Commission have a comment?”

Loy was recognized. “I would support that in December, and I’ll support it in January.”

The Chairman asked, “Are there any comments from the general public?”

Howell

Howell said, “Speaking on behalf of Common Cause again, this amendment also seems to be very well taken particularly given the budget that the Ethics Commission has been operating under. If we could save some money by not having mandatory mailings —everybody who gets these mailings knows what the rules are anymore —or they ought to. If you have established a committee, you’ve got to know what the rules are, and you we shouldn’t have to waste a lot of money sending these things out when people know what the rules are. Let the Commission decide whether to send out notices or not. It shouldn’t be mandatory given the circumstances.”

Raley

The Chairman asked, “Does anyone else have any comments on proposed rule #16?” There were none. The Chairman said, “Very well. That constitutes then our public hearing on proposed Rule Amendments #15 and #16. We will now go to the next page which will be an internal discussion. By that I mean discussion among the Commissioners on the other 14 rules.

“With that respect, I will call upon the sponsor of each rule numerically to give an opening statement, and then we will have discussion among the Commissioners.

Proposed Rule
Amendment #1, Sponsored
by Bingham

The Chairman said, “We will go then to proposed Rule Amendment #1, which is sponsored by Commissioner Bingham. If you will give an opening statement, then we will discuss it.”

Bingham said, “If you will remember the public discussion we’ve had on this before, you know these contributor statements are important. They are also very difficult to obtain despite good faith efforts on the part of the campaigns and treasurers and candidates. For whatever reason, some contributors just fail to cooperate, and the campaign or the candidate ends up getting penalized. It has been suggested, and I think there is a good argument... The rule, as it has been—I have in my version today—I would urge us to adopt one follow-up request with certain mandatory language in it.

“Some people would favor two or three total follow up requests by the campaign. I’d like to see what one follow up request does. Again, some people are never going to respond to you. They are perfectly willing to give to the campaign and for that we commend them. We think it is also important that they fill out the contributor card. But, in terms of the practical day-to-day operation of a campaign committee, sometimes that’s just so time consuming and expensive that you have to hire someone to do it.

“This is kind of to me a small step. It takes away the absolute requirement of submitting these cards back to us, and it says that you will be considered in compliance if you send out a written follow up request with certain mandatory language. You don’t have to make a second or third request. I thought this would relieve the campaign committees of a task that I know is difficult. I know from personal knowledge. To obtain these contributor cards is very difficult.

“Again, I don’t want to discount or under-emphasize the importance of them, but there is only so much that a campaign can do to obtain them.”

Pettigrew said, “Commissioner Bingham, I appreciate your sponsoring this amendment. I think what happens here is, we get caught between the fact that we are very proud of the fact in this state that we have these contributor statements. And, on the other side of the coin, that, as you have said, it is extremely difficult to get all of them in. And, it puts the candidate at a disadvantage. I think it particularly puts candidates who don’t have a lot of money for running at a

disadvantage because they almost have to hire someone or find some unsuspecting kinfolk to help them pursue those contributor statements.

“So, I think it’s really in the best interest of the candidates to be able to have your amendment. However, I would like to amend it with your approval to at least three efforts —one, two, three. And, if after the third, we go back to what would have been your rule on #1. I just think we need to, the candidate needs to, bear some of the burden of getting them in. And so, I would offer an amendment. Would you second that amendment or would you accept it?”

Bingham answered, “Commissioner Pettigrew, I feel like we do need to give some relief to the campaign committees, and I will accept the amendment to three, and then that gives the Commission a year to get feedback from the committees. You know if you send out one email, hopefully it won’t be too disruptive or expensive to send out two more or two more letters. It is still a burden, but at least you will be in compliance if you ever get caught —whereas now, it’s just an absolute violation if you never obtain that card and turn it into the Commission or obtain it. So, I will accept that single change to proposed Rule Amendment #1, which is really Rule 257:10-1-2(c)(6).”

Pettigrew said, “Thank you.”

The Chairman said, “Procedurally, I think we need to vote on this amendment. I will accept your motion, and I will accept Commissioner Bingham’s second if that is appropriate. So, we will vote individually now, not on whether or not to adopt this rule, but simply to adopt the amendment proposed by Commissioner Pettigrew raising the attempts from one to three. And, the rest of the rule will remain intact. Is that understandable to everyone?”

Hughes said, “We would also need to change the word ‘request’ to the plural ‘requests’ throughout.” Bingham added, “And, in the last sentence if the treasurer makes such ‘effort’ would be changed to ‘efforts’.” Hughes replied, “In other words, make it correspondingly plural to make it grammatically correct.”

Roll was called for purposes of the vote, and the motion passed unanimously. The Chairman announced, “So, the proposed Rule Amendment stands as changed. Would anyone else like to make comments on the merits of this rule?”

The Chairman commented, "I have given this particular rule no little thought. For the number of years I've been on here, I can't think of another rule that I have given more consideration. I have great respect for Commissioner Bingham and Commissioner Pettigrew, and I know that their motives are good, certainly, and I can see some merit to this.

"But, speaking quite frankly, I cannot support it. I will not vote for it. I'd like to explain why, and I encourage my fellow commissioners not to support it for these reasons. The hallmark of the Ethics Commission is twofold, and all of us agree on this. It's accountability and full disclosure. I fear that this rule not only prevents full disclosure, but it invites obscurity and invites non-accountability. If a donor and the recipient—and I'm not suggesting this happens all the time; in fact, it may happen only a few times—but if, hypothetically speaking, the donor and the candidate desire to cloak together with some degree of anonymity the gift, the giver, the circumstances, then all they need do is send the notice out, and then another one and then another one and then thirty days later, they can go ahead and deposit the contribution and no one will find out anything about it.

"I'm not saying that happens all the time; obviously, it does not happen all the time. But, it could. We have just gone through a period of time of investigation and criminal prosecution of a high state official who was just sentenced a few days ago in federal court for having straw donors. My friends, I fear that this invites just that sort of mischief. I'm not saying it would be a direct result of it, but I'm saying that it certainly allows that to happen.

"I'm very concerned that accountability will be jeopardized here. If we do not require a certification and an authenticity of a specific amount that is donated to a candidate, if we do not have a paper certificate with a signature on it, then in the event somewhere down the line we are required to have an audit or an investigation, and we don't have the paper trail that we need to follow in order to pinpoint that specific contribution...

"The burden should be on both the recipient, as well as the donor, before this money is put in place and put in deposit and used for the candidate's purposes to be elected. The voting public has a right to know, the media has a right to know, the general public has a right to know where this money is coming from and who is supporting this

candidate. That is part of the democracy under which we are privileged to live is to know who is supporting a particular candidate.

“I fear that this rule would invite anonymity and would open the gates to that sort of thing. So, for these reasons, I respectfully decline to support what I believe is potentially money laundering available to a candidate and to a donor who want to seek anonymity. And, I will urge my fellow commissioners not to support it for those reasons.

“Now, having made that statement, Commissioner Bingham and I have tried lots of lawsuits, and the plaintiff always has the final say, and so I call upon you to make a comment.”

Bingham said, “I think that it has potential benefit. If it turns out in reality to create situations that the Commission feels uneasy about, this could be itself amended later. I will also say this. If somebody wants to really commit, not an ethical violation, but probably a crime —or so-called launder some money —it’s probably never going to show up on any books. And, whether we get a contributor card or not —it might be useful to have —that crime, the people who commit that kind of crime, are going to take all of the measures that they can think of to conceal it.

“I just think, for the vast majority of individuals who are running for office and participating in campaigns, they just ought not to have quite so much of a burden to try to get these contributor statements, which we all wish were readily available, but they are hard to get because we are dealing with human beings.”

The Chairman said, “Alright, with that closing statement then, we will vote. It requires a motion and a second. I assume Commissioner Bingham that you move to adopt this rule. Is that your motion?”

Bingham replied, “Yes, sir, I move that we adopt proposed Rule Amendment #1 as amended to correspond with the language suggested by Commissioner Pettigrew which is three of these attempts rather than one. And, if three attempts to comply with this section are unsuccessful, the person accepting the contribution will nevertheless be considered in compliance with the rule.”

Pettigrew seconded the motion. Roll was called for purposes of the vote, and the motion passed three-to-one with Raley voting, “No.”

Proposed Rule
Amendment #2, Sponsored
by Raley

The Chairman announced, “Proposed Rule Amendment #2 has to do with campaign expenditures and requiring a description with some exactitude, specificity, of expense items. I have sponsored this rule, and I will speak in favor of it and ask my fellow commissioners to support this rule. The preparation of letters, brochures, mail-outs, mailing lists, the posting of these items and innumerable other activity, that is related to a campaign, over the last several years have gone through somewhat of a metamorphosis.

“In many respects this is not your grandfather’s all-volunteer campaign organization, and we have seen in recent years the commercialization of campaigns. Business entities have sought and received substantial fees from candidates who have turned over in large measure the organization and operation of their campaigns. And, all too often in the last several years, we have noticed in the campaign expenditures a generic notation, ‘consultation’, or some such innocuous wording, is there that does not define who particularly received it or for what purpose it was received other than consultation or something of that nature.”

Bingham interrupted, “Mr. Chairman, a question. Does the rule, as currently written at least, require the identification of the recipient even if the description of what the recipient allegedly did was...” [Hughes said, “No, it does not.”] Bingham said, “Thank you.”

The Chairman resumed, “In any event, I have been alarmed, and I think this alarm has been shared by some of the rest of us, that there has not been a definitive and specific identification of the recipient of campaign expenses. Now, this has been brought to our attention by the media in several reports and news articles. This bill would tighten up those restrictions a little bit more and would require some more specificity and who and for what purpose.

“I think it is a very important rule. I think it is one, if we are going to follow our guidelines of full disclosure and full accountability, certainly this proposed rule [amendment] strengthens that posture. So, I’m going to ask my fellow commissioners to support this rule. Does anyone else have any comments they would like to make?”

Loy was recognized. He said, "It seems to me that one thing we've done already this morning, if we approve proposed Rule Amendment #15, is to —as Mr. Slater pointed out last month — candidates who have less than \$20,000 may file a manual report now and #15 would lower that to \$10,000. So, that should soften that a bit.

"I do hope that when we open this up for comments, from other than the Commissioners, that both Mr. Slater and Representative Reynolds will have a brief comment."

The Chairman explained, "Commissioner Loy, we are in that phase where we're just discussing this among ourselves. We have had all the input I think normally we would receive. If someone has something to say, that has not been said before, certainly we should receive it and consider it. But, we're in that phase now where we just discuss this among ourselves. [Loy said, "Okay."] If Mr. Slater desires to speak to this on a matter that we have not yet considered, then, of course, we will grant him that privilege.

Pettigrew asked, "May I speak to the proposed rule? I think that some of the ingredients of this rule are valuable and things that we definitely need. We need names and sometimes even more precise information as to perhaps company names on these expenditure reports. However, I cannot support going to \$50 to require that. I don't think we are interested in what they paid Kinko's for copying something or what they go to Office Depot for and get some pens and pencils and so forth or even to the lumber store to make signs.

"If we're going to do this, I think it should be for looking for the gross exceptions to following the Rule that we've talked about. As we've said previously, most of our candidates are good, honest people. They try very hard. They want to comply. But, if you make it very, very difficult for them and say you have to do this, this and this, I think again you are going to discourage some of the more middle class, average people from wanting to run for office.

"They don't have the money to hire the staff to do this kind of thing. Now, granted that some of this is valuable, and we have seen it in the past where someone says 'consultation'. I think we can capture the problem and capture those who are misusing the present rule by raising your \$50 to \$1000, and I would like to propose that as an amendment and, of course, hear the debate on that."

The Chairman asked, "Was that a motion?"

Pettigrew answered, "I so move that we change \$50 to \$1000." Bingham seconded the motion. The Chairman asked if there was any discussion on the motion?

Bingham said, "Mr. Chairman, we need to move along through these, but I want to concur with the remarks made by my fellow Commissioner, Jo Pettigrew. Again, this is one of those things where, on one hand, we are imposing more burden, but we are trying to not make it an excessive burden if we raise the amount. I think that gets us to situations where people might be giving contributions in-kind or giving discounts to candidates and things like this.

"I really think that the public will benefit from knowing who the recipients of the larger contributions are —not the relatively small amounts that we would see under this. And, that's why I support the amendment."

The Chairman responded, "I cannot support the motion on the floor. I think \$1000 is too excessive for what we are trying to do. As I understand it, the federal limit is \$200. Will someone enlighten me on that? Is that correct? [Hughes said, "Yes, sir."] I would be willing to accept \$200 in lieu of the \$50. I cannot accept the \$1,000.

"I think this again invites a loop-hole that we are creating. If someone wanted to avoid disclosure, then they could write a couple of checks for \$999 and easily get by. And, that would be a significant amount of money if they did it repeatedly. I think it would totally frustrate the objective of this rule which is to disclose and to account.

"I, quite frankly and speaking personally, am offended when I see a report that comes in and just says 'consultation' or 'printing'. We have no more idea where that goes and the contributor to a candidate's campaign should know where that money is going. There is no way for the Ethics Commission to know. There is no way for the public to know.

"So, I think all of us agree that there should be some specificity. But, raising it to \$1,000, with all due respect to my colleagues, I think, is far excessive, and I think it will frustrate the purpose of this rule. I would go for \$200, Dr. Pettigrew, but I can't go for \$1000."

Pettigrew asked, “Can I respond to your comments? If I read this rule correctly, we’re talking about contributions in the aggregate during a reporting period, so you couldn’t get by with writing a check for \$999 and then turn around and write another one for the same amount to the same person or entity. It would be within the entire reporting period. And, this is where—if you go to the \$1,000—then you are going to pick up those big expenses where I think graft or corruption could more likely occur than in the smaller amounts. So, because of the word “aggregate”, I am still opposing your change to \$200.”

Bingham asked, “Mr. Chairman, can I comment? Again, on the \$1,000 limit, that is in the aggregate, as Commissioner Pettigrew has pointed out, so that if I perform services—a series of services for a campaign—and I’m paid by the campaign, and they pay me in eleven \$100 checks, \$100 at a time, for whatever, they’ve exceeded the amount here, and that’s got to be reported to any particular recipient if they spend in the aggregate during the reporting period an aggregate or total sum that exceeds \$1,000, then all of this is triggered.

The Chairman responded, “We are now dealing with the motion to amend. We are not voting on the merits of the amendment.

Loy asked, “I have a question. I am closer to supporting your suggestion of \$200. Even Representative Reynolds felt that about 85% of the expenditures you can keep track of are in excess of \$250—and he made the suggestion that we should think in the \$200 to \$250 range. Perhaps you might support \$250, and we’d get these other folks here to think like in Chickasha more where \$250 is a lot of money.”

The Chairman answered, “This sounds like an auction. Do I hear \$250?”

Bingham said, “Mr. Chairman, I appreciate Commissioner Loy’s as always wise and prudent attempt to find a middle ground. I think if you send somebody from your campaign to Target, and you say we need four wastebaskets and we need copier paper and just this item and that item, and it just multiplies, you can’t walk out of Target with those kinds of purposes without it being over \$250. I just don’t think that’s what we’re looking to have reported to us. So, that’s my thought.”

Pettigrew said “Mr. Chairman, to plead my case once again, I think when we try to make a very big change in the rules is where we often get problems with, not only understanding the rule, but compliance. And, this is a major change. We had a lot of major changes last year, and this is another really difficult change to press upon those that we represent and that we work with.

“My proposal of bringing it to \$1,000 gives us time to see if that takes care of the problem. If it doesn't, we've got next year, the next year, the next year to bring it down to whatever, \$500, \$250. I think jumping from nothing, zero, to having to report with name, address, location and everything else —or even \$200 or \$250 —I think is asking too much of the candidates. We want to encourage people to run for public office. We don't want to make it more difficult for them. So, I continue to push my amendment for \$1,000.

Representative Mike Reynolds [“Reynolds”] asked to be recognized. The Chairman said, “I am going to make an exception in your case if you have something new that has not been presented before.”

Reynolds said, “I just wanted to point out that it's kind of difficult in the software to not even put it in that. There are already fields in the software to capture that, and when I record my campaign contributions, it's a lot easier to go through my checkbook and put every single one than it is to go through and say not applicable. And then, it totals it for me at the end. So, the additional work is not that great actually.

“If a person writes a check for those things, they just record it right there on their ethics report, and I would just like to...I mean most people don't do campaigns out of petty cash, and they just take their checkbook and sit down at their computer and start recording the entries on the software, and the fields are already there readily available. So, I just hate to muck up the work at this point, but I wanted to point that out.”

The Chairman asked, “So, \$250 would not be a burden for you then?”

Reynolds said, “No sir, not at all. I do it now.”

The Chairman said, "If there is no further discussion on the proposed amendment, we will now vote. Patti, if you will, call the roll. This is not on the merits of the rule. This is on the motion to amend. "

Roll was called for purposes of the vote, and the motion failed with the vote two-to-two, with Raley and Loy voting, "No."

The Chairman announced, "The amendment fails."

The Chairman said, "We will now vote on the merits of the rule itself."

Loy said, "I would offer an amendment of \$500." The Chairman seconded the motion. There was no discussion. Roll was called for purposes of the vote, and the motion failed with the vote two-to-two, with Bingham and Pettigrew voting, "No."

The Chairman said, "That motion fails."

The Chairman asked, "Are there further motions before we vote on the merits of this rule?" There were none. He continued, "Since I am the proponent, I am going to take the opportunity to make a closing statement on this. I think all four of us recognize that there is a need here. It became apparent to us several times last year, and I want to thank our members, the fourth estate, for bringing it to our attention—where just eager ineptitude, negligence or deliberate effort caused a failure upon the part of a campaign to specifically delineate the purpose of an expenditure.

"I think all four of us, regardless of where we may stand on this, all of us recognize that this is something that needs to be addressed and corrected, and, as commissioners of the Ethics Commission, we have an obligation and a burden to try to correct it. I think this gives us that opportunity. It's something that should be addressed.

"I have heard and I have listened and I have considered with great respect the comments of Dr. Pettigrew, Commissioner Bingham, and I value their comments and their wisdom. But, I think this is a rule that is sorely needed and it's one that we should not pass over lightly.

“Having concluded my closing statement, I’ll call for Ms. Bryant to call the roll.”

Hughes asked, “Is there a second?” Loy seconded the motion. Roll was called for purposes of the vote, and the motion failed with the vote two-to-two, with Bingham and Pettigrew voting, “No.”

Proposed Rule
Amendment #3, No
Sponsor

The Chairman said, “Proposed Rule Amendment #3 was continued [from 2008], and there is no sponsor for #3, so it will not be considered.”

Proposed Rule
Amendment #4, No
Sponsor

The Chairman said, “Proposed Rule Amendment #4 allows a twice annual solicitation of corporate employees. We’ve had several discussions on this rule [proposal]. There is no sponsor, so that will not be considered.”

Proposed Rule
Amendment #5, Sponsored
By Raley

The Chairman announced, “Proposed Rule Amendment #5 deals with charitable contributions. We’ve had several public hearings on that. I am the sponsor of that rule. I will not burden the record or try the patience of my fellow commissioners by restating what I’ve already stated in the past about this rule. I think this is a very fine rule. It incorporates not only the thinking of the commissioners, but the contribution of Caroline Dennis of the Senate staff, who has contributed substantially to the wordage, and I think it is something that we should favorably consider. Is there any discussion on this?”

Loy said, “I just want to comment on Commissioner Pettigrew’s comments in the minutes whereby we need to absolutely guarantee that these employees, children of state employees, have access to these scholarships. I’m very much in favor of #5.”

The Chairman said, “That was a very appropriate addition to the rule, and I appreciate it.”

Pettigrew asked, “May I respond to that, also? Once again, thank Caroline Dennis because she has run this past a lot of other people—like in the Higher Education Regents and so forth—to be sure that the language is acceptable to them and what they need. I really think it has been presented to all of the interested parties in that particular segment about the scholarships. Am I right, Caroline?” [Caroline Dennis answered, “Yes.”] Pettigrew continued, “With that I would like to second your proposal to pass this rule.”

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

Proposed Rule
Amendment #6, Sponsored
by Raley

The Chairman said, “Proposed Rule Amendment #6 is the ‘no gift list’ rule. I am the sponsor of that, and I would like to make an opening statement, and then we will have discussion. Is Dr. Wood here by any chance? Yes. Dr. Wood, thank you for coming. We received your email about the meeting that we had on Wednesday, and because of inclement weather we changed it, and I regret that it caused some inconvenience.

“But, I’m glad that you are here today. We’ve heard your statements. We’ve considered them, and so we’re going to have a little internal discussion now on this ‘no gift list’. The last time we discussed this, this rule was characterized by various people who were present at the time. It was called ‘strange’, it was called ‘silly’ or some other word of that nature. I don’t remember exactly what the minutes reflected.

“I happen to think it was a good idea, and I still do. And so, I added my sponsorship to the rule. It seemed to me that it would cure a problem, not a large problem, but it would cure a problem in a very simple fashion—virtually, no administration. The click of the mouse could remove or delete or add a name to this list. So, I don’t see how this can be anything more than a win-win situation.

“Those members of the Legislature who believe that it is inappropriate to receive gifts would be spared the hassle of having to return an unwanted gift. Members of the lobbyist community would have a readily accessible list available, and they would know which legislators would be more likely to receive a gift than others. I can see some real merit to this.

“But, the other side of the coin is this. I don’t see this as a major problem. I think it is a problem, if there is one, that could be at least partially remedied by following a recommendation of Mr. Slater, who said, I think in effect—and I don’t want to misquote Mr. Slater—but a legislator who did not desire to receive gifts could just simply put a note or a notice on his door of ‘no gifts’ or something of that nature. And then, the lobbyist community could go up and down the corridors and make their own list.

“The other side of it is this. We are not at war with the state Legislature. We don’t want to put any legislator in an embarrassing, potentially, or awkward position. And, I can understand how, under some circumstances, a particular legislator might feel like he was being pressured in some respect to get on this list. We don’t want undue pressure put on anybody, particularly if this problem could be resolved in some other fashion.

“Now, having said that, I am pleased, and I think my fellow commissioners were pleased to see a report in the press here a few days ago concerning the last six months’ receipt of gifts, and I was pleasantly surprised. And, I think we can conclude that we have made some real progress in the last few years. And so for that reason, I’m willing to wait and see if we continue to make some positive progress on this, Dr. Wood.

“And so, the Chair would entertain at this time a motion to continue this rule—not vote it up or down, but just to continue, keep it on the agenda. Let’s take a look and see whether or not we continue to make some positive progress, and we can address it in the future. Dr. Wood, I’m going to ask you specifically, and I’m putting you on the spot now, but do you have any comment that you would care to make concerning that proposal?”

Dr. Wood [“Wood”] replied, “I would say that one of the reasons that I decided to go forward with this in the first place was that Representative Jason Murphey, who is my representative, had a bill last year that died in committee. This year he is proposing it again. And, you do have to go down the corridors to find who doesn’t want gifts and who does want gifts.

“I don’t think, in the day and age of the internet, that we should have to go and walk up and down the Capitol stairs and try to figure that out. What if it changes? What if somebody adds something, if one takes it off? The constituents won’t know. A lobbyist won’t necessarily know unless they go down the corridors.

“And so, I think it’s important. It’s just disclosure. Marilyn Hughes has said that it really wouldn’t cost anything to do so, to put up this stuff. You can create a worksheet where you sign it and say that you want to be on this. And, it could be up to the Legislature to figure out if they think we should do this or not if you guys pass this.

“I don’ t think it’ s intrusive, but I think it is transparency. It’ s also accountability. I don’ t think the average constituent in Oklahoma realizes that legislators are paid \$122 per diem for transportation, for food and for lodging a day —times 66 —that’ s the time period in which they meet. That’ s \$8,000. So, they can either use that as added income, or they can use that for actual lodging.”

The Chairman said, “Dr. Wood, let me interrupt you for just a second. You and I are kindred spirits philosophically on this as I’ ve already explained. I think it is a problem that can be easily addressed by some other means for the time being. And, what I am simply doing at this time is inviting from my fellow commissioners a motion, not to table it, but to continue it. So it would be on the agenda for consideration at any time through the remainder of this year. And so, what I am asking from you is a comment on that procedure —not necessarily on the merits or the demerits of this, but of the procedure —if you have a comment.”

Wood replied, “I haven’ t seen you guys do that because it’ s always in January, so I don’ t know how that procedure would work or not.”

The Chairman answered, “We appreciate all of your input. You’ ve been a faithful attendee, and you are always welcome, and we thank you very much.”

The Chairman asked, “Is there a motion?” Loy moved that proposed Rule Amendment #6 be continued. Pettigrew seconded the motion.

Bingham said, “Mr. Chairman, may I say something? I’ ve spoken out a number of times during my term on the Commission about gifts having no place whatsoever in government —and although the Ethics Commission is not a fourth branch of government, given our unique constitutional place —in my own mind we have a line, and it’ s a line that probably moves from time to time, but a line that says, ‘ Just as we expect the Legislature to leave ethics investigation and the enforcement of the ethics rules to us, there is a line over which we should not step in trying to control actions of legislators.’ ”

“I just have a feeling that this rule amendment crosses over that line. It’ s not the philosophical part of it that bothers me. We pass

rules yearly that to some extent control the behavior of legislators. I'm not against that *per se*. But, this just has the feeling to me of us intruding too far into the legislative branch, and that's just a feeling I have. Thank you."

The Chairman stated, "We will now vote on the motion on the floor. Ms. Bryant please call the roll." Roll was taken for purposes of the vote, and the motion passed three-to-one, with Bingham voting, 'No.' The Chairman announced, "So, this rule is continued and will remain on the agenda for consideration at any time throughout this year."

Proposed Rule
Amendment #7, Sponsored
by Pettigrew

The Chairman said, "Dr. Pettigrew is sponsor for both proposed Rule Amendments #7 and #8. Would you like to say something about those two rules?"

Pettigrew answered, "Thank you, Mr. Chairman. Rule # 7 is one of my attempts to try to pull things together that were found in two sets of the Rules as they existed and perhaps streamline the Rules. In talking about this, I would like to say to the entire Commission that I think that the time has come for us to review all of the Rules of the Ethics Commission —go through them one-by-one and decide if we really believe that Rule should be in existence or if it is time to change it.

"We heard comments in our hearing before the budget committee that that's what the Ethics Commission members wanted, and I'm wondering if we still want all of those, or if there should be a close examination of every one of them in an attempt, not only streamline our rules, but to organize them better. I think the more easy that we can make things for those who have to comply, the better the compliance will be and the less likelihood that there will be mistakes made or inadvertent errors.

"This was one of those things though —in kind of a band aid effect —to pull two sections together into one. And, that's why you see at the bottom of the page the language that is completely eliminated because it was duplicated in the one at the top of the page. However, at our last meeting, we had input from two or three sources suggesting changes.

“One was from Senator Brogdon to remove the section that said ‘if funds are available’. And, I thought he made a very good point. It is used very often to say, ‘Okay, it’s a good idea, but we won’t really have to do it.’ So, at his suggestion, I took that out. And then, I changed this to permissive language at the suggestion of Commissioner Bingham that it’s not a requirement, but it is something that is a proposal or a goal, as in the sentence, ‘It shall also be the goal of the Commission to initiate and continue programs for the purpose of educating officers, employees, and citizens of this state on matters of ethics and government service.’”

“Given the fact that we sometimes are short of staff and short of time, we don’t want to have an absolute obligation in the law on this if we don’t have to. So, if there are any questions, I will certainly try to answer them. If not, I’ll move the adoption of proposed Rule Amendment #7.”

The Chairman asked, “Are those changes that you have suggested, are they incorporated in what we have before us?”

Pettigrew replied, “Yes. Look on, it’s not numbered, but in the paragraph that is underlined, ‘It shall also be the goal of the Commission...’ In the one that we had before us last month...”

The Chairman explained, “The reason I’m asking this is, have we satisfied the rule requiring public hearing on this change?”

Hughes replied, “It was discussed in the meeting in December, and then the change was made. And, it was emailed to everyone a week ago.”

The Chairman said, “That’s fine.”

Pettigrew said, “That’s a good point. And, the rule—the way it was last month—says, ‘the Commission shall initiate and continue...’ And, we changed that to a goal to continue those education programs. So, I move adoption of proposed Rule Amendment #7.” Bingham seconded the motion. Roll was called for purposes of the vote, and the motion passed unanimously.

Pettigrew said, “Proposed Rule Amendment # 8 is again trying to pull together some language that was just a duplication. When we

changed—this was before my time on the Commission, but changed the amount to..., well, actually, it was at my first meeting that we did this—lowering to the \$100 for elected officers, making it the same as for state officers and state employees. But, in our rules it was written in two sections because, at one time, it was two different amounts. Therefore, I combined them into one section and eliminated the duplicating section.

“Then, in the last part of this proposal, is a section that, throughout our hearings, was probably changed ten or twelve times as I tried to get the correct language. What we are trying to do in the last section of this Rule is to make it clear that if a lobbyist principal has several lobbyists, that lobbyist principal can designate who is going to be the one to make the report for the lobbyist principal.

“Previous law said it would be the first, as you can see in that part that’s stricken in the middle of the paragraph—the first lobbyist. And, that can be very misleading and confusing as to who the first lobbyist is and could even take it down the wrong path by saying whoever files first gets to file for everyone else. So this clarifies, I hope, that the lobbyist principal can designate one lobbyist to file the reports required by this section and adding in this that the other lobbyists will not have to list those things. They will be required to turn in a form and indicate who is reporting on their behalf. I so move adoption.”

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

Proposed Rule
Amendment #9, Sponsored
by Raley

The Chairman announced, “The next one is proposed Rule Amendment #9, the so called ‘zero gift rule’. This was proposed by Dr. Wood and carries my sponsorship. I want to make an opening statement—not as Chairman of the Commission, but as an individual and as a sponsor.

“In the best of all possible worlds from my perspective—and, I think I’m joined by a number of other people—it would be totally inappropriate for an individual elected and charged with the responsibility of drafting laws of this state and the allocation of tax money, it would be inappropriate for that person to receive a gift or a thing of value from anyone that was seeking access to that individual or

seeking to influence his or her vote. In the best of all possible worlds, in my perspective, that would be deemed inappropriate.

“But, we don’ t live in the best of all possible worlds. And, we have to live with political reality. I’ m each day more aware of some political realities that befall us. I would like to see this rule in effect. I think its purpose is good. I think its motive is pure, and I think, eventually, sometime in the future, something of this nature will be adopted.

“Except for communications that have come to us from special groups —and, it was obvious that it was an organized activity which sent to us a series of emails and other messages asking us not to consider this rule —with the exception of those organized activities, the overwhelming, and by that I’ m talking about virtually 100% of emails that we have received and the messages and the letters and the calls that the Commissioners have received, have been in favor of something along this line.

“This tells me that the general public, the voting public, is becoming weary of this situation and wants it to stop. I am influenced by that overwhelming response. However, I think that we have made some significant progress in the last couple of years, and I’ m speaking specifically of the Rule that was enacted last year, which was submitted to the Legislature, which passed the legislative scrutiny and became law the first of July, reducing from \$300 to \$100 the limit that any legislator could receive annually.

“As we have discussed several times over the last few months, we were eagerly awaiting the report of the last six months on receipt of gifts. And, we received that report not too long ago. And, I was, quite frankly, I was pleasantly surprised at the significant decrease that we have seen in gifts. And, I attribute that in large measure to this Rule that we adopted a year ago today.

“I am persuaded also by the wisdom of several of my fellow commissioners that we need to make allowance for that significant decrease and see how it works. And so, while I believe, Dr. Wood, that your suggestion is a good one, and I support it philosophically, I am willing, at this juncture this afternoon, to wait awhile and see if we continue to have the significant positive response to what we did a year ago.

“And so, for that reason, the Chair would consider a motion not to table, but to continue, to keep this on the agenda, but keep a close watch on the reports that come in on the gifts that are received during the next six months. I want to speak quite frankly —again as an individual commissioner. Folks, I’ m not going to get any heartburn over a discussion of governmental affairs or pending legislation over a hamburger or a chicken fried steak. That happens and I know it. And, I’ m not really that worried about it.

“What does offend me is a wine and roses candle-lit dinner at some high dollar restaurant with wives present which is nothing but a social event. It has nothing to do with state government and is simply an attempt to establish some kind of favorable personal relationship with a legislator which involves ultimately perhaps a sense of obligation. That does offend me.

“I’ m also offended by the offer and receipt of high dollar tickets to professional basketball or football games or other forms of entertainment, rock concerts, where it is virtually impossible to discuss state business under those circumstances. Quite frankly, as a taxpayer, I don’ t want my tax money discussed in the middle of a football game or in the middle of a basketball game. That’ s not the proper venue for it. That does offend me.

“So, I think we need to keep a close watch over the next six months and see what happens. And, if we continue to make progress, so be it. But, at this juncture, Dr. Pettigrew, I’ m willing to accept a motion that this be continued.”

Pettigrew responded, “Mr. Chairman, I’ m not ready to make that motion. I’ m holding this because I would like to respond to some of the things you said, if that’ s alright.” [The Chairman said, “I yield to you.”]

Pettigrew said, “Thank you. In your opening statement, Mr. Chairman, you spoke about eagerly awaiting the report of the lobbyist gift reports —which we all saw and we were very proud of —because there was transparency and there was a show that, as well, the contributions had gone down.

“Under the proposal of zero gifts, I imagine, I assume, there would be no reports —nothing to be reported because people have to assume that everyone is following the law and saying they gave

nothing. This is a big trade-off I'm not willing to give, and I don't know that the public really is willing to give. The trade off is transparency—which is under our current law—that things have to be reported. They tell who it was given to, how much it was, and what it was.

Under a proposal of absolutely no gifts, there would be no reports, thus, no transparency. I think sometimes we don't think some of these proposed rules through, and that is true in law as well, to their consequences. Which brings me to a term that I've become familiar with in the last couple of years—the law of unintended consequences—the law of unintended consequences.

“When you take away the vehicle for reporting contributions, you get no reports of any contribution. You get no transparency. The other thing is, you capture a lot of people who are trying to do what is right as a friend and as a good Samaritan and say, ‘Well, you can't do that.’ When my next door neighbor had a death and a very difficult disappointment, I did what we often do as Oklahomans. We are raised to be that way, giving and caring. I took a gift; I took flowers; I took food.

“Oh, by the way, that person was a legislator. Under the no gift rule, by the time I added all of that together, I couldn't have done that. I couldn't have been the good Samaritan for my neighbor because I was a lobbyist for education, and my neighbor was a legislator. There are so many cases of this because it is not just the legislators and the state officials, it is state employees.

“And, I think when we try to take away the ability to give anything, we are taking away one of the fundamental things that makes Oklahomans—a giving nature, a friendly nature—not to get someone to give you something back, but just to be the kind of person that we were taught in Sunday School to be.

So, I think we have two unintended consequences here that, if we went to this rule, we would have. One is we would stymie some of the people who want to do good things but are prevented from doing it because they are a lobbyist and the other person—even though they are a next door neighbor, even though a friend you've known forever, a old college roommate type—you can't do it. And, the other is the unintended consequence that we take away transparency; therefore, I

cannot support this proposed rule at all, and I don't think we should continue it. I think we should just defeat it. Thank you."

The Chairman said, "Thank you, Dr. Pettigrew. Is there any other comment?"

Loy said, "Mr. Chairman, just briefly. There is, as you said, from a non-organized response to the publicity about this amendment, there is just an overwhelming feeling that there should be no gifts. And, I think it's difficult to achieve that, and I think we have achieved something by limiting them to \$100. And, I do think we ought to give that a chance to work.

"But, there is a feeling out there among the general public that this is still a problem. And, legislators by their own actions—I mean I guess there is a bill now about a no gifts list, but that would be the Legislature acting on itself. But, there is a feeling that this has gone overboard, and hopefully we have gotten it back into a more reasonable figure. So, I would support abandoning it. By continuing, you are really not doing anything that we couldn't bring up again anyway. So, I think we ought to leave it where it is, Mr. Chairman."

The Chairman asked, "Thank you, Mr. Loy. Are there any other comments?"

Bingham responded, "Mr. Chairman, I think if this Commission wanted to revive this version of this, that's doable really any time. If the motion is to continue it, I will probably vote against that. Even though, philosophically, I concur with much of what you said—what several of our contributors have said. But, I would like to remind everybody that with very, very few exceptions, the old saying, 'all politicians are crooked' is false in Oklahoma.

"And, yes, we have lobbying and lobbyists, and yes, we need reporting, and I believe we need a limit. Whether that limit is \$100 or zero, I don't believe in the idea of unlimited gifts to those who hold elective office or who are state employees. But, we have just begun to see what this new \$100 limit can do and will do.

"I hope that what we are seeing, the decreased gifts, is a direct result of this. I don't know that it is. But, I am comfortable with the level at which we have put a cap on this. Again, the Commission in the

future may decide that \$100, particularly when given by enough sources, by enough lobbyist principals, needs further reduction. But, right now, I think I'd like to see how this works out."

The Chairman said, "Thank you, Commissioner Bingham. I concur with what has been said, and that's why I suggested that we put this on hold whether we call it a continuance or whatever. I am quite willing to wait and see the results of our very positive step we took a year ago in reducing this from \$300 to \$100. I think the reports that we've seen in the last several days certainly make it self-evident that something positive is happening.

"I'm willing to wait and see the results through the remainder of this year. And, that is why I suggested what I think is a very practical solution, which is put it on hold. Let's give this rule a chance to work and see what happens. I sense, however, that I may be alone in suggesting that it be continued. If I hear no motion to that effect, then we will go ahead and vote up or down on the rule as it now stands."

Hughes said, "It has no sponsor, so there is no need for a vote. There hasn't been a motion."

Adams said, "He is sponsoring it, isn't he? He said he was."

Hughes said, "I'm sorry. You announced that today."

The Chairman said, "I trust your memory better than mine, but I thought that I had sponsored it at some time.

Hughes said, "You asked me to put your name on it at one time."

The Chairman said, "We talked about it."

Hughes said, "We talked about it, but you hadn't told me that you wanted to sponsor it."

The Chairman said, "Can we correct that now, and I offer my official sponsorship of it." [Hughes said, "Yes, sir."]

The Chairman said, "I officially sponsor it, and I adopt what I just said earlier in support of that sponsorship. Hearing no motion to the effect that it be continued, we will vote up or down on the rule as it is now proposed. Any comment, question or what we are voting on at this time?" There was none. The Chairman so moved. There was no second; therefore, it died for lack of a second.

The Chairman announced a fifteen minute break..

Proposed Rule
Amendment #10, No
Sponsor

After the break, the Chairman announced, "We are back in session. The next item is proposed Rule Amendment #10. It was suggested by Representative Mike Reynolds. There is no sponsor. Would anyone care to sponsor that?" There was no one; therefore, no vote was taken.

Proposed Rule
Amendment #11, No
Sponsor

The Chairman announced, "Proposed Rule Amendment #11 was again requested by Representative Reynolds. I'm not advised that there is a sponsor to that, as well."

Hughes said, "Representative Reynolds asked me to point out that the time has been changed from seven to thirty days."

The Chairman said, "There is no sponsor for rule #11. No vote will be taken."

Proposed Rule
Amendment #12, No
Sponsor

The Chairman announced "Proposed Rule Amendment #12; there is no sponsor. As Representative Reynolds has advised us, he is withdrawing it without prejudice so it can be submitted later." No vote was taken.

Proposed Rule
Amendment #13,
Sponsored By
Pettigrew

The Chairman announced, "Proposed Rule Amendment #13 is sponsored by Dr. Pettigrew."

Pettigrew said, "I am going to take action on that. This is something that we've had a lot of discussion on and a lot of questions have been raised, and I know that Commissioner Bingham and I met with the staff one day so we could go over some of their concerns.

"And, I just do not want to pursue this rule at this time, but I would move to continue it so that we can continue looking at it in the next year. So, I make that in the form of a motion." Bingham

seconded the motion. Roll was called for purposes of the vote, and the motion passed unanimously.

Proposed Rule
Amendment #14,
Sponsored By
Pettigrew

The Chairman announced, "Proposed Rule Amendment #14 also is sponsored by Dr. Pettigrew."

Pettigrew answered, "Yes, we've had some questions and some internal discussions about what is a local central committee. And, because there seemed to be a lot of disagreement or uncertainty about what it was, we've determined that it might be best to clarify it in our rules so that we have either county, congressional or political party [committees] that you can transfer your unused funds to. And it takes out that confusion about what a local committee is.

"I move adoption of this rule." Bingham seconded the motion.

The Chairman said, "I think the clarification is good. I will support this rule." There was no further discussion. Roll was called for purposes of the vote, and the motion passed unanimously.

Proposed Rule
Amendment #15,
Sponsored By
Pettigrew

The Chairman announced, "Proposed Rules Amendments #15 and #16, these are ones that we had our public discussion on earlier. Is there a motion that they be adopted?" Pettigrew moved to adopt rule #15. Bingham seconded the motion.

The Chairman said, "I am persuaded somewhat by what Commissioner Loy said a while ago. I see some merit there, but I'm a little bit, even though we have satisfied the statutory requirements of having a public hearing, I'm not satisfied that we've had enough of a public hearing. So, let me just ask Dr. Pettigrew frankly, do you see any urgency of this? Would this cause a problem if we didn't act on it today?"

Pettigrew said, "I don't know, and I would invite staff to talk about that, and Patti is going to respond. As I understand it, she is entering things by hand now up to that \$20,000, and this would eliminate some of that awesome responsibility, I think. Would you talk about it Patti?"

Bryant said, "We enter all paper filed reports. However, many, many candidates and non-candidate committees already file their reports electronically way below the \$20,000 level. It may eliminate a few

reports filed by us but not as many as you would think because a lot of them already do it. Any help we can get would be fine. If you want to lower it to \$10,000, that's fine with me."

Pettigrew said, "It would eliminate some."

Bryant said, "Yes, but not as much as you would think because many of them already do file [online]. But, it would help some, I think."

Pettigrew said, "I certainly appreciate the Chair's comments and the concern of both Commissioner Raley and Commissioner Loy."

Bingham said, "Mr. Chairman, I'm sorry. I didn't mean to interrupt. I'd like to see us go ahead and do it. It will save the staff some work —maybe not as much as it would first appear to. And, I hope it will send out the message to all campaign committees loud and clear. We've reduced it from \$20,000 to \$10,000, and that's not going to be the last reduction of this threshold. We need to get to complete electronic reporting. That's the best way to get to real-time transparency, and it certainly will free up our staff to do many of the other things they have to."

The Chairman said, "Thank you, Commissioner Bingham. Are there any other comments?" There were none. Roll was called for purposes of the vote, and the motion passed unanimously.

Proposed Rule
Amendment #16,
Sponsored By
Pettigrew

The Chairman announced, "The next is proposed Rule Amendment #16."

Pettigrew said, "Since we've already discussed this, I won't go into detail about making the first class mail notification optional for the Commission. I will just move approval of rule #16." Bingham seconded the motion.

The Chairman asked, "Are there any other comments or questions? I have one concern that I would like for you to address, Jo, and that is this. You're more knowledgeable about this than I am, but first of all, I think our initial concern would be whether or not this adds to the burden on the staff. And, I would appreciate a comment from you Patti. Would this increase your workload in any way?"

Bryant said, "I believe that non-compliance will skyrocket. The number of people not filing will increase which means we will be sending out more certified late letters the day after. But, I may be wrong. I don't know. People are in the habit of us reminding them. Maybe we could send an initial letter out each year saying we aren't going to send reminders anymore, and this is the schedule. But, we'd just have to try it and see what happens.

"It would save some work initially on the mail-outs. They are time consuming, but it is good to have a nice clean list of who we sent them to—the address and all of that. But, email may work if we get good addresses. We can just try it and see. But, like you said, the rule says 'may', so we can continue doing it if we want to. We are just not obligated to."

Hughes said, "I think that this is not a problem for people in this building who run for office because they have staff to remind them when reports are due. It is going to be probably the biggest problem for challengers to incumbents who, this is the first time around, and they see a list of due dates when they come up here one day, and it doesn't sink in for a while, and this reminder puts them on notice.

"If they've got email, we're going to use it because we are already setting up a system [by which] we can send them. Once the first due date hits, they will get an email every day after that through the last day saying this report is now due, this report is now due, everyday. But, if they don't have an email, then without first class mailing, we are going to lose some compliance of the challengers—the small campaigns that don't have the people looking out for them that the bigger ones do, the consultants and the legislative staff and everybody who do a great job telling those around here when these due dates come up."

The Chairman said, "Are you telling me that this kind of leans in favor of the incumbents?"

Hughes said, "I think it does, but I think to adopt it you are still making it discretionary. So, if you give us some time to see if the email notices work, that's one thing. If it is discretionary, you would adopt the policy whether you are going to go by it or not. But, if you all of a sudden jump into no notices, I think we're going to have a real

compliance problem, and then we're going to be into so many assessments that you don't have the staff to handle it."

Bryant said, "It is very expensive."

Hughes agreed, "...very expensive assessments. The certified mailing for an assessment now costs \$5.50."

Bryant said, "The late letters are also by certified mail, and they go out 24 hours after the deadline. The last report filed for the pre-General, there were 99 late letters I sent out. I'm visualizing 300 at \$5.50 each. And, we are required to do that by our APA rules."

Hughes said, "And, it takes time to change APA rules."

Pettigrew said, "That's why we need to continue our discussion and not move to do that but allow us some time to look as our Executive Director has stated —maybe try some of this and see if it works well enough, but not be locked into that."

Bryant said, "We also provide a lot of good information in the reminder letters. It explains a few things about electronic filing and this and that. It's not just telling them that they have a report due this date. There is a lot of good information that they are told."

Bingham said, "The thing that I like about it is that it's not because it indicates that we want you to move to not sending them. I think what it does is, if you wanted to experiment in a particular year saying we are going to mail to this group and not this group, and let's see how the compliance is, for whatever reasons you might think this group needs the mailing far less than this group."

"I just don't like this idea of us saying we 'shall' do it. And then, we have a problem in the office. Somebody gets sick or is disabled or there is a technological glitch, and suddenly we can't meet the 'shall'. It says we shall. Everybody is doing their best, but this just gives you all some flexibility. You can continue doing it exactly as you've been doing it. You can try changes and if they don't work out, go to the other way because you are not locked into one thing. That's my opinion."

Bryant said, "If we have a shortfall, also that is one way that we could save. We don't have a lot of areas that we can eliminate when we are cut. There's not very much that can be cut out, and mailings might be one thing we can cut."

The Chairman said, "Dr. Pettigrew do you see any great urgency about this? I have expressed my concern. I am a little bit bewildered simply because I haven't had the chance to study and think about this. And, even though technically we've had a public hearing today, I'm not satisfied that all of the questions have been addressed. Do you see any real urgency about this or is this something that can wait until the next time around?"

Pettigrew said, "I think the point is, changing this Rule changes nothing of what we absolutely have to do. But, if we don't do this, the very soonest that we could change this would be 18 months from now, July of next year. And, as I said earlier in the meeting, we are moving to a technology age, and this is one of the things that a lot of the people are prepared for, and we need to get some of the others prepared for.

"This gives us the option of having these discussions as we are having them right now without having to do either way. And, you know, in a way it's not urgent. But, it was brought up as an idea in our budget hearing with the House, and I thought it sounded like a good idea to, at least, examine it further. And, this would allow closer examination of what we are doing."

The Chairman said, "I'm all in favor of examining it, and I think we should. And, I'm not really convinced that it is necessary to do it at this time even though it gives us an option. And, as you say, 18 months or a year from now we can vote on it and in 18 months, it will go into effect.

"I'm still not convinced that it is necessary to do it at all, irrespective of when we do it. So, for those reasons, and also because I frankly would feel more comfortable about having some more input from other people involved, with great respect, I cannot support it. Any further comment on this rule? There is a motion. Is there a second?"

Hughes said, "Yes, Loy made the second." There was no further discussion. Roll was called for purposes of the vote, and the motion failed two-to-two, with Loy and Raley voting, "No."

Pettigrew said, "Do I need to do a motion to continue it, Ms. Adams?"

The Chairman said, "You could do a motion to continue. For all practical purposes, tomorrow morning you can submit it again."

Adams said, "I don't know. You are asking me a question I don't have an answer to. Once we voted on the merits of it, there has been a vote on the merits. Why would we need to continue something that has been voted down? But, as you say, as a practical matter, it can be reopened any time. Once we've voted on the merits, I don't think that we turn around and vote on it again."

The Chairman said, "We could reconsider it."

Adams said, "If you have one of the two 'no' votes wanting to reconsider, I think you can do that."

The Chairman asked, "Would a motion to reconsider it be appropriate?"

Adams said, "First of all, let me tell you we are not bound by Parliamentary Procedure. In the past, when there has been a vote on a motion, and the vote has been on the merits, and now we want to reconsider it, it has required that—the Chairmen have required that—of those who have voted, there has to be a majority of those voting against it asking that it be reintroduced. We've observed that before. I don't know that we are bound by it. As a practical matter, I don't think that it matters. I think that we are deliberating over something that doesn't have any practical application because tomorrow we can just reintroduce it, and I think it would be a cleaner record not to do it."

The Chairman said, "We could, from a Parliamentary standpoint, someone who voted against it could move to reconsider it, then move to continue it."

Adams said, "You don't have three is the problem. You have a two-to-two vote. Mr. Chairman, you can do what you want. I am

just going to weigh in as your General Counsel. I don't know why we would muddy up the record with it since tomorrow we can put it back on the list."

The Chairman said, "I think that's the most sensible thing I've heard all afternoon."

Pettigrew said, "And, I concur with that."

Reconsideration Of
Proposed Rule
Amendment #2, Sponsored
by Raley

Bingham said, "Mr. Chairman, before we leave this item on the agenda, which is #4 —action on promulgating new rule amendments, language and/or modifications to the Constitutional Ethics Rules —I would like to have us direct our attention to proposed Rule Amendment #2 which we have tabled on the merits. And, I would like to move that the Commission reconsider Rule Amendment #2. I think we all agree it is important to have some specificity as to what's being paid for and, second, a fair identification of who's receiving the expenditure.

"Obviously, we have had at this point a real honest disagreement about what amount of money should trigger this type of reporting. But, I move that we reconsider Rule Amendment #2."

The Chairman asked, "Is there a second to the motion to reconsider?"

Pettigrew said, "I would ask for what purpose?"

Bingham said, "I think for us to reconsider the amount. And, I would ask my colleagues to at least vote for reconsideration which is not on the merits yet."

Pettigrew said, "I'll second the motion."

The Chairman announced, "There is a motion and a second to reconsider. We are not voting on the merits; we're simply voting to reconsider. Patti, call the roll." Roll was called for purposes of the vote, and the motion passed unanimously.

The Chairman said, "Now, it is back on the floor for reconsideration. Do you have further comment, Mr. Bingham?"

Bingham said, "No, other than I continue to support the threshold of \$10,000, and I realize there are other arguments that could be made for that, and I respect those arguments. I just believe that's the right amount to start out with. And, if in future years the Commission decides that needs to be adjusted up or down, the Commission will do that."

Hughes asked, "Did you mean \$10,000 or \$1,000?"

Bingham answered, "One thousand."

The Chairman said, "There is a suggestion that the threshold be \$1,000 as opposed to \$50, \$200, \$250. As a proponent and a sponsor of this..."

Bingham asked, "Mr. Chairman, if I may, and this is a question to our Counsel also, are we reconsidering the rule itself as originally proposed by Chairman Raley or are we reconsidering the amended version? Was there a motion to raise it to \$1,000 and that failed?"

Adams answered affirmatively and said, "And, there was a motion for \$500, and that failed."

Hughes said, "So, you would need a motion."

The Chairman said, "It is back on the table, we are right at square one. So we need a motion for another threshold." [Hughes said, "Right."]

Bingham asked, "Mr. Chairman, would you accept an amendment to proposed Rule Amendment #2 that, instead of \$50, this rule # 2 would read \$1,000?"

The Chairman, "Yes, I will second that motion. The motion is made and seconded. Is there any comment or discussion on the motion? Does everybody understand what we are doing? We're back to square one, and now the threshold prospectively is not \$50, but \$1,000. Hearing no further discussion, Patti call the roll." Roll was called for purposes of the vote, and the motion passed unanimously.

Hughes said, "Now, I think you need a motion on the proposed rule as amended. That was the motion to raise it to \$1,000."

The Chairman asked, "Is there a motion on the proposed rule as amended?"

Bingham said, "I move that the motion, as amended at \$1,000, be approved and sent to the Legislature." Pettigrew seconded the motion. There was no further discussion. Roll was called for purposes of the vote, and the motion passed unanimously.

The Chairman said, "Thank you, Commissioner Bingham. That was a good suggestion. It is democracy in action. That concludes our discussion and disposition of the rule amendments, and the Chair will now entertain a motion on the rules that we have voted upon to be submitted to the Legislature. And, I think there is a printed form in our packet that has the correct wording here. Is there a motion about that?"

Adoption of Promulgated
Rules for 2009

Loy said, "I move that the Commission adopt as the agency's official promulgated rules for year 2009 all language, rules and amendments to rules today passed, and that they be added to the text, and be recognized as part of the official Constitutional Ethics Rules [Sections 257:1-1-1 et seq. of the Rules of the Ethics Commission, 74 O.S. Supp. 2008, Ch. 62, App.] I move, in addition, that the Commission authorize the Chairman, staff or the Chairman's designee, to make typographical or non-substantive modifications, as well as adopting language to carry out the Commission's intentions, with respect to the entire text of today's promulgated rules, as may be necessary.

"I further move that the Commission authorize the Chairman, staff, or the Chairman's designee, to approve the final draft of the promulgated rules prepared by staff in accordance with today's vote. And, I move that the Commission direct the Chairman, the staff, or Chairman's designee to present the approved Commission promulgated rules to the Governor and both Houses of the Legislature on the second day of the upcoming legislative session, in accordance with the requirements of Article 29 of the Oklahoma Constitution —and, as a courtesy, to the remaining appointing authorities."

The Chairman said, "Thank you, Commissioner Loy. Is there a second to the motion?" Bingham seconded the motion. There was no discussion. Roll was called for purposes of the vote, and the motion passed unanimously.

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 December 11, 2008. The Chair called for corrections or amendments to the proposed minutes. There were none.

The Chair entertained a motion to adopt the minutes of the open and closed sessions. Bingham so moved; Loy 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 December 1, 2008, through and including December 31, 2008.

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."

Bingham said, "Mr. Chairman, I would just like to say that some of us, both staff and Commission members, attended hearings in the House Budget Subcommittee. We thought they were very informative, constructive and positive meetings. We are glad we attended, and we appreciate the Legislature having us and giving us the opportunity to speak to them on a number of things."

The Chairman said, "Thank you, Mr. Bingham. I have had a report from several sources. I am deeply appreciative personally to my fellow commissioners. I think all three of you were there at all three of these hearings, and I think it was significant that we had a large delegation to show support for our staff, specifically our Executive Director, at that time. I've had several reports, and I am deeply appreciative to all of you for the support that you provided."

Administrative Report

The next item on the agenda was the agency's administrative report. Hughes reported there were no changes or additions. "However," she reported, "I would say that on Thursday [January 29, 2009], pursuant to House Bill 2110, I taught an ethics training session to the House. I had already taught one last year to the Senate, and I

will be meeting with the House Majority Caucus on Monday for another session of that.

“And, since the weather was not very good on Thursday, I’ve agreed to do another session for those who were unable to attend last Thursday. So, that means two more sessions of this ethics training. And, in both cases and in the budget hearing, we had a lot of praise for our electronic filing system and how well it works. And, I, too, appreciate the fact that our commissioners were there and supportive and were willing to come. Thank you.”

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

Bingham moved that, with regard to items 13(c)(i), (ii), (iii), and (iv), no action was required; with respect to IV-2009-001, that the Commission find that information it had received provided an adequate

basis for the belief that one or more violations of the Rules had occurred and that it or they occurred all or in part in Oklahoma County, Oklahoma, and that the respondent committed the violations and that an investigation was warranted and that the Commission open such investigation; that the use of one or more subpoenas was necessary and that the Commission both authorize and issue one or more subpoenas as might be necessary and that the respondent be notified.”

Adams asked, “May I add one amendment to that? It says Oklahoma County. We want to leave that in, but can we put and/or Tulsa County?”

Bingham said, “I will amend my motion by reading the pertinent part; otherwise, it will remain the same. I move that the Commission find that the violation or violations occurred all or in part in Oklahoma County, Oklahoma and/or Tulsa County, Oklahoma. [Adams said, “Correct.”] I move that we take no action in those matters that Rebecca recited and that we also approve the motion I just made to open an investigation in IV-2009-001.”

Pettigrew asked, “Could we also on that expand it beyond those two counties? Just say ‘and/or possibly other counties’?”

Adams said, “We could do that.”

Pettigrew said, “I think we probably should.”

Bingham said, “I’d like to amend then my motion in part and the pertinent part will now read that the Commission find that the violation or violations occurred all or in part in Oklahoma County, Tulsa County and/or other counties in Oklahoma.” Pettigrew 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.

New Business

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

Next Meeting

The Chair said, “We will not have a meeting in February unless it’s a called meeting. So, our next scheduled meeting will be in

March. Its time will be announced later unless you want to pick a date today.

Hughes said, “March is the spring break month. I would prefer March 6 because I’m planning a trip to Florida the third week in March.

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. Loy seconded the motion. Roll was called for purposes of the vote. The motion passed unanimously.

The Chair then declared the meeting to stand adjourned.

MARILYN HUGHES, Executive Director

Approved On Behalf Of The Commission:

JOHN RALEY, Chair

MH/pb