

MINUTES OF PUBLIC HEARING AND REGULAR MEETING  
OF THE ETHICS COMMISSION  
STATE OF OKLAHOMA  
HELD OCTOBER 9, 2015

Call to Order

Upon notice with agenda being properly posted at the Commission office at least twenty-four (24) hours prior to the commencement of the meeting and notice being filed at least 48 hours in advance with the Office of the Secretary of State, a public hearing and regular meeting of the Ethics Commission of the State of Oklahoma ["Commission"] was called to order on Friday, October 9, 2015, at 10:00 a.m. Chair Karen Long ["Long"] opened the meeting, which was held in Room 432A, 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: John Hawkins ["Hawkins"], Thomas Walker ["Walker"], Cathy Stocker ["Stocker"], and Long. Long mentioned that Commissioner Pettigrew is expected any moment. A quorum of members was declared.

Chair Long mentioned that the Commission would deal with Agenda Items #5 and #6 to allow Commissioner Pettigrew to arrive at the meeting.

Jo Pettigrew ["Pettigrew"] entered the meeting at 10:08 a.m.

Staff & Visitors

Commission staff members present at all or part of the meeting were Lee Slater ["Slater"], Ashley Kemp ["Kemp"], Geoffrey Long ["Long"], Stephanie Black ["Black"], Roberta Hale ["Hale"] and Darci McKee ["McKee"].

Observing all or part of the meeting: Caroline Dennis, Senate staff; Samantha Davidson, Senate staff; Shawn Ashley, ECapitol News; Joel Dean, Journal Record; Mark Thomas, Oklahoma Press Association; Vance Harrison, Oklahoma Broadcasters Association; Glenn Coffee, Attorney; Denise Davick, Attorney; Scott Fetgatter, 2016 House Candidate; Mithon Mansinghani, Oklahoma Attorney General's Office; and Jennifer Palmer, The Oklahoman.

Introductions and Announcements

Director Slater mentioned that are distinguished visitors that will appear in the program later.

Slater introduced Darci McKee, the newest Compliance Officer for the Ethics Commission. Ms. McKee is the first person to come to the Ethics Commission with experience having been employed with a campaign reporting service for over 7 years.

Slater mentioned that there are now 6 ½ employees for the Commission. Ms. Black who currently works part-time will be full-time in the Summer of 2016 after she completes her law degree.

Chair Long welcomed Ms. McKee to the staff.

Long mentioned that the staff was moving to Item Agenda #5 to allow Commissioner Pettigrew to arrive.

Consideration, Discussion and Possible Action on Minutes for Public Hearing, Regular Meeting and Executive Session held on September 11, 2015

Walker moved to approve minutes as presented for the public hearing, regular meeting and executive session held on September 11, 2015.

Commissioner Pettigrew has arrived at the meeting.

Stocker seconded.

Roll was called and the vote was as follows: Walker – yes, Stocker – yes, Hawkins – Yes, Pettigrew – yes, Long – yes.

**Motion carried.**

Discussion of Agency Expenditures for the month of September, 2015.

No discussion was held.

Chair Long stated that the Commission would now return to Agenda Item #3; Public Hearing on Advisory Opinion AO-15-01 (AOR-15-03).

Public Hearing on Advisory Opinion AO-15-01 (AOR 2015-03, Mr. Scott Fetgatter)

General Counsel Long mentioned that Mr. Scott Fetgatter is present at today's meeting.

General Counsel Long provided an explanation of the draft opinion. He only prepared one draft of the opinion. Based on his research and conclusions, he didn't feel that there was any other direction for a second opinion.

The first question is whether Mr. Fetgatter can continue his employment as a radio show host while he is a candidate for the state House? The ethics rules do not draw categories of businesses that a candidate can engage in during candidacy. The rules do govern the ethical behavior of a candidate.

The second question is whether he could discuss his candidacy on his show? Because of the broad protections that are given to the press and the First Amendment, as well as drawing from some history of the Oklahoma Ethics Commission and Federal Election Commission, there is a press exemption for someone to engage in legitimate press activities. The press exemption would not allow the radio station to provide a free platform to a candidate to engage in campaigning. It would be deemed to be an in-kind contribution from a corporation, which is prohibited both criminally and civilly in the rules. This exemption would extend to all forms of the media. Any discussion of his candidacy would only be allowed if it fits within the press exemption.

The third question is whether he could discuss opinion on political issues on his show? There are times that the show does discuss

various political issues. So long as it fits within this press exemption and it is a legitimate discussion to allow someone to offer their political opinions and engage in discussions; it would be permitted. It can't move outside of the press exemption to allow him to campaign.

The fourth question is whether he could advertise on the radio station. Again, the ethics rules don't really address an employee of a business. He is certainly free to advertise on the station so long as the advertising is provided at the same terms and costs as other advertisers currently pay for advertising.

The fifth question is whether he could accept contributions from the station, station owner or station employees. The station is a corporation and is unable to make a contribution. The other employees and station owner can make individual contributions.

The final question is whether he can discuss opinions if he is elected. At this time, the Commission is only able to offer an advisory opinion on real facts that exist at this time. If he is indeed elected, he can seek another advisory opinion regarding those facts.

General Counsel Long concluded his explanation of the opinion.

Scott Fetgatter, Requestor

He appreciates being able to speak to the Commission today. It actually came up about two weeks ago on the show. His show is a call-in show. Word is getting around that he is a candidate for a House seat. Callers are calling in and they want to discuss his candidacy. He wants to be within the guidelines to make sure he is in compliance with the rules.

No questions from Commissioners.

Director Slater mentioned that there are two gentlemen present today for public comment. Vance Harrison, Oklahoma Association of Broadcasters and Mark Thomas, Oklahoma Press Association.

General Counsel Long mentioned that no written public comment was received.

**Public Comment:**

Vance Harrison, Oklahoma Association of Broadcasters

Mr. Harrison is the President of the Oklahoma Association of Broadcasters. In reviewing the opinion, it is well written and very logical. There is one question, page 4, bottom paragraph. If the discussion of the candidacy is unrelated to the radio station's publishing and broadcasting function, then the press exemption is not applicable and the station has made an unlawful contribution.

He asked for further clarification and guidance on this language.

General Counsel Long explained that the Commission would look at the press function. Often times, it becomes a factual question on a case by case analysis. It would depend on the actions of the radio station in this case. It is a call-in show and they are discussing a certain topic. At the end of the call, they mention that they will vote for Mr. Fetgatter. If it moves on from that call, then what safeguards are in place to minimize the situation so that the station isn't placed in a situation where it is outside the press function role?

Mr. Harrison mentioned that transparency is the key to these things. He is in agreement with the entire opinion. As a side note, so that the Commission knows, the station is heavily regulated by the Federal Communications Commission ["FCC"]. There is another layer that will become more burdensome. The rules are very specific. A radio or television station has to provide an opposing candidate equal time. If a person is running for office within 45 days of a primary election or 60 days before the general election, the station would be required to provide both the candidate and his opponent equal air time. The station has a burden higher than the Oklahoma Ethics rules.

General Counsel Long mentioned that the Commission is aware that the FCC rules are very strict and stringent.

Chair Long mentioned that there are federal rules in place that will be a higher burden to requestors than the Ethics rules. Those people that seek opinions of the Oklahoma Ethics Commission may need to be aware that there is another level of regulation that might affect the request.

Mr. Harrison mentioned that the radio and television industry is probably one of the most regulated industries by the federal government. The licenses are owned by the government; the stations are given the opportunity to manage those licenses.

Harrison provided an example of the equal time rule. There is a Michigan state representative that has called football games on Friday nights. He is very popular. About eight games into the season, his opponent went to the radio station and asked for equal time on the station. The representative had broadcasted eight three-hour games. The radio station had to give 24 hours of air time to the opponent. Please know that the broadcaster, whether it is a television or radio station, is watching a high burden that affects their license.

The association is in complete agreement with the advisory opinion. It presents as a good working document.

Mark Thomas, Oklahoma Press Association

He agrees with his counterpart, Mr. Harrison. He believes that it is a well-written opinion. He also mentioned that prior to this opinion; the Ethics Commission has never offered a draft opinion to be discussed outside of Executive session. This is the first opinion to be discussed publically by the Ethics Commission. He appreciates the ongoing transparency of the Commission.

There are some other questions. Our equivalent of a call-in show is a letter to the editor. There are policies in place to deal with letters to the editor. Traditionally, there have been some candidates that actually own the paper. A former Speaker of the House owned 45 papers at one time. As to this opinion, the association's legal counsel reviewed the draft opinion and was in agreement.

Chair Long mentioned that she appreciated Mr. Thomas' observation of how this draft advisory opinion was handled by the Commission. It is a move to transparency. Sometimes it helps to know that the Commission gets a little recognition.

As a group of Commissioners, we feel that transparency is important. It is important when you are able to invite and receive other opinions, the work product is better. If it is better, it serves Oklahomans. Many candidates as they determine whether to take on the burden of running for public office, they will have some of the same questions. The more we can use the advisory opinion process to allow people to identify their questions, then the Commission has an opportunity to address it with a public hearing. Ultimately, there will be more guidance.

Mr. Thomas thanked the Commission for the opportunity to speak today. He also mentioned an example where a columnist decided to run for Senate. He was a humor columnist. The opinion at the time was that he needed to stop writing his column. He had to quit running for office. It sent shock waves through the community. This opinion will help address the situations that sometimes present themselves.

No comments or questions by Commissioners.

Public hearing is closed.

Possible Action on Advisory Opinion  
AO-15-01

Walker made the following Motion: Madam Chair, I move the Commission to approve the advisory opinion as written. Pettigrew seconded.

Roll was called and the vote was as follows: Walker– yes, Pettigrew – yes, Hawkins – yes, Stocker – yes, Long – yes.

**Motion carried.**

Introduction of Amendment 2016-03  
and Amendment 2016-04

Explanation of Amendment 2016-03 by Director Slater

Director Slater provided an explanation of 2016-03, an omnibus amendment that will clarify some language in the current rules. The current rule prohibits candidates for state office to be an officer of any other committee other than their own committee. This amendment would allow a state candidate to be an officer of a political party committee. An elected state official could serve on a political party committee. The rule would still prohibit a state candidate from serving as an officer of another candidate committee or a political action committee.

Section Two requires a little explanation. One of the phenomenon that has happened in this country and in this state since the Citizens United case, is that corporations will be formed extensively to be non-profit corporations. Primarily corporations are formed under Section 501(c)(4) of the Internal Revenue Code. These corporations if they are legitimate would not be required to identify their contributors, but would be permitted to make independent expenditures. What has happened, using this loophole as a ploy, the corporation forms, engages in anonymous independent expenditure activity and then the corporation is dissolved. Most times, they never apply for or receive a 501 (c)(4) tax exemption status. This would simply state that those organizations are required to either obtain the tax exempt status from the Internal Revenue Service or if they don't show their tax exemption status at the time of the independent expenditure activity, the corporation would be required to disclose all the contributors, similar to political action committees. This is an attempt to plug up a loophole in the law.

In addition, section two also makes explicit what is implicit in the rules today. If a purported independent expenditure is in fact coordinated with a candidate, then it is deemed to be a contribution to the candidate and expenditure by the candidate.

Section Three speaks to electioneering communications being treated similar to the independent expenditure rule in section two as it relates to coordination.

Section Four states that civic organizations can present a speaker with a small token gift. Slater has spoken to many different organizations over the years and some of those same organizations have a practice of presenting the speaker with a small gift. This rule would allow state officers and employees to accept such a small token gift; so long as the gift is not monetary in value or is not a cash equivalent gift.

Section Five is a very important amendment. Evidently, it is very difficult for organizations to function properly without presenting plaques to certain state officials to commemorate state service. This rule will allow a lobbyist principal to give a plaque to an elected state official once a year to acknowledge the official's state service provided the plaque does not exceed two hundred dollars. Such gift would be required to be reported on the lobbyist report.

2016-02 is reserved for an amendment that Commissioner Hawkins has requested.

Slater concluded his explanation of 2016-03.

Pettigrew asked a question of Director Slater. She mentioned that the language "no more than once a year" as written could imply that a person could only give one plaque per year to one state official. Is there a way that it could be cleaned up? Slater mentioned that the staff would review the language.

Hawkins asked clarification as to the amount rather than the quantity. Hawkins stated if the amount of two hundred dollars is the limit, then does the Commission really care about the quantity.

Slater responded that the rule is supposed to work in a way that a lobbyist principal can give multiple plaques to different state officials but none of the plaques can be valued at more than two hundred dollars.

Pettigrew asked if the rule is in place that still prohibits cash gifts.

Hawkins wonders if the rule limits it to two hundred dollars per each lobbyist principal to each official, then do we need to worry about how many plaques are given to that one official. Is the intent to limit of the dollar amount or the number of the awards?

Slater mentioned that the intent of the rule is to cover both areas. Typically, it is one plaque from an organization to be given per legislator.

Walker asked a question regarding section two about the corporation and never applying for tax exemption status. Doesn't the Commission also need to hold each director and officer of each corporation individually liable? How are the officers and directors accountable to the Commission?

Slater mentioned that if this were the rule, and the rule was violated, the officers and directors would essentially be liable for the violation. Typically, a corporation is controlled by the Board of Directors. Walker requested that the General Counsel look into this matter.

General Counsel Long doesn't believe that the Commission could pierce the corporate veil with this rule. It may require a court procedure to pursue the officers if a settlement agreement is not reached. He will look into this issue and report back to the Commission.

No further questions regarding Amendment 2016-03.

Explanation of Amendment 2016-04 by Director Slater

Recently, the constitutionality of a few rules was called into question and the Commission took action to not enforce those rules. This is a collective amendment that will encompass four rules governing the use of state facilities for political purposes. We have worked with the Attorney General's office and, in fact, we have incorporated some of the suggested language that would make the rules constitutionally defensible.

Section One simply removed political fund raising prohibition in our existing rules. That particular rule was not addressed by the Commission previously.

Section Two will modify Rule 2.6 that the Commission is not enforcing. If adopted, it would prohibit political fund raising activities in the Capitol or any other state owned or leased building that are regularly used for the conduct of state official business.

Section Three addresses Rule 2.7 that speaks to the posting of campaign materials. If state facilities are being used for permitted political purposes, it would allow the campaign materials to be posted when state facilities are being used for permitted uses.

Section Four amends another section in the rules that was not addressed previously by the Commission. Specifically, auditoriums and public meeting rooms may be used for political purposes.

For example, under the appropriate circumstances, an auditorium at a public university could be used for political purposes, to include fund raising and for a period of time prior to the event, the posting of political materials would be permitted.

This amendment serves to address Rules 2.6 and 2.7 that the Commission decided not to enforce earlier this year. There are other rules that may need be reviewed and amended.

Walker asked Slater regarding clarification of the terms of the offices owned by the State and asked for the intent of the rule. Does the rule speak to just the office or the entire facility? Walker read the rule and wonders if someone could work around the rule.

Slater mentioned that the rule would apply to the State Capitol. For other spaces, the rules would apply to the space where the state official business was being conducted. There are common areas where the activity can't be prohibited. Walker mentioned the building that houses the Corporation Commission. He thinks someone can go around the rule and conduct activity outside of the office work space.

Slater said that the Insurance Department leases privately owned space. It doesn't lease all the privately owned space, so there are common areas. The rule can't regulate activity in those common areas.

Chair Long brought up the example of Shepherd Mall. The State leases quite a bit of the space, as do a lot of private companies. There is some space such as common areas that would not fall under the rule.

Walker is concerned that a building that is wholly owned by the State of Oklahoma has common areas that could allow someone to engage in certain prohibited activity. This State Capitol is not a permitted space. But there are other state wholly owned buildings. He is concerned that the Commission is drawing a distinction without a difference.

Chair Long asked if the Jim Thorpe building was owned by the State. Walker said that the entire building was owned by the State. Slater said that even though the State owns those buildings, there are auditoriums that are available for public use within those buildings.

Hawkins mentioned that state official conducted business doesn't usually take place in the common areas or the hallways of a building.

No further comments or questions. The Amendments are now introduced.

Slater mentioned that the Amendments will be scheduled for public hearing at either the November or December meeting. We also need sponsors for the Amendments. Chair Long mentioned that she will sponsor Amendment 2016-04. Pettigrew will sponsor Amendment 2016-03.

Chair Long asked for public hearings to be scheduled both in November and December, with the Commission taking possible action in December.

Chair Long thanked the staff for all the work on these Amendments.

Commission Discussion of Rule 3  
(financial disclosure)

Chair Long started with opening comments. Public comment has been taken several meetings prior to today. She has been moved by the public comment for deeper consideration as to Rule 3. Several issues have been presented during the public comment.

The Commission may need to move back to basics with regard to how to process all the public comment and move forward with revising Rule 3. The public begins to understand the questions, the areas of concern, the process, etc. In January, we need to move forward with the amendment. For the staff to know where all the Commissioners stand on the possible revision of Rule 3, we need to discuss the process. The rule comes first and the form comes after the rule. Most of the public comment speaks to the form itself but we need to discuss the rule which will dictate the

form and the contents of the form.

As we proceed today, we need to get back to the basics. We are talking about who, what, where, when and how of financial disclosure. In dealing with public disclosure, it will be helpful for the staff members to have a more basic understanding of the direction. We need to decide who falls within the scope of the rule and who has to file the financial disclosure, the what of the rule speaks to the information that needs to be disclosed. We can request the financial information, but is the information disclosing a true conflict of interest or is it just information that the Commission can't use to disclose a true conflict of interest. The where of the rule has to speak to where the conflict exists so the filer is disclosing the correct information to show a conflict that would prohibit someone from public service.

Slater will speak to the fundamentals of financial disclosure.

Slater stated that the Commission authorized a study of financial disclosure in 2015. Since starting the study, the Commission has conducted five formal hearings including a number of informal meetings. Discussion has been held with all types of filers. We have heard public comment from filers who actually file the financial form. The group includes state elected officials, candidates, members of boards and commissions, non-elected state officials, state employees and members of the media. We have heard comment varying from completely doing away with financial disclosure to making changes to the classification of filers.

He doesn't recall another instance where so much public comment has been taken regarding any subject of the Commission. Surely, this is a first for the amount of time that has been spent analyzing the financial disclosure issue by the Commission in its entire history. It's hard to believe that there are some areas that have not been discussed. One is the allocation of resources and the other topic is enforceability. What kind of enforcement action is the Commission contemplating?

As to allocation of resources, it is safe to assume that resources are not going to increase. If anything, we have been told to expect a decrease in the agency's allocation of at least 5% to 20% for the upcoming fiscal year. There is speculation that the next year after will be even worse. We can continue to have philosophical discussions on whether the agency is adequately funded. However, we know that the Commission will be funded less and less in coming years. We have been fortunate in the last two years in the appropriation funding. In addition to the appropriation increases, we received the funding for the new software.

Through careful management of agency's resources, we currently have 6 ½ staff members. For the upcoming fiscal year, we will have 7 full-time employees. This is significant because over 90% of the agency's appropriation is for personnel costs. The allocation

of resources is closely tied to the financial resources - the amount of money that we spend on internal agency operations. This agency has to do all the same internal agency housekeeping duties that a bigger agency has to do with regard to agency management. It takes one full-time person to handle the day to day operations, close to 15% of the entire budget.

The seven employees administer four programs that are unique to this agency: campaign finance, lobbyist regulation, conflicts of interest and financial disclosure. A distinction is made between substantive conflicts of interest and financial disclosure. The Commission has made a commitment to front load the enforcement obligations by focusing on continuing education programs that help to keep our regulated community in compliance with rules and assist with the back end enforcement actions.

The back end enforcement programs have resulted in more than \$100,000 going into the General Fund in the last two years. That is more than our increases in appropriations. Slater predicts that the number will continue to grow. The regulated community will start to figure out that the Commission intends to enforce the rules. This will result in more filers being in compliance with the rules. It will take some time, probably years, for the continuing education programs to pay off with more filers being in compliance. Until that time, we will spend most of the agency's resources handling investigations of alleged violations. Every hour that is spent on financial disclosure takes away an hour that could be spent on handling an investigation. Financial disclosure doesn't fit into our enforcement scheme.

No recent investigation by this Commission has involved financial disclosure. The focus of enforcement activities of Rule 3 has been just getting the forms filed. The content of financial disclosure filings has not been reviewed. This comes as a surprise to our filers. The staff has spent time reviewing campaign finance reports for substantive compliance with the rules. In addition, lobbyist expenditure reports have been reviewed for substantive compliance with the rules.

Financial disclosure is different. The only person that knows if the information reported is accurate is the filer. We can only check whether all the information has been reported; if the all the blanks are filled in. There is only a failure to fill in a blank, not answering a question. The Commission has no way of knowing if the information provided is accurate. The only way to get to that point is to have an internal audit for which this agency is not equipped to handle at this time. We could attempt some of those activities on a random basis in reviewing some of the financial disclosure forms.

For example, what if a filer owns \$10,000 in stock. The filer is required to disclose the stock on his filing. The filer doesn't disclose the stock ownership when he files his financial disclosure form. The Commission finds out that this filer didn't disclose the

stock. The Commission could assess a compliance fee up to \$1,000 for failing to report it. The Commission could file a court action. Realistically, Slater doesn't believe that the Commission is going to do either. What kind of enforcement actions is the Commission going to entertain with regard to financial disclosure? Late filing fees as compliance issues. Going beyond a late filing fee gets complicated.

At the last meeting, Deputy Director Kemp provided a chart that analyzed the time spent on financial disclosure resources. It amounts to one staff person for the year to handle the financial disclosure program. There is another cost in addition to our agency cost. The cost to other state agencies in manpower that the agency liaisons who handle the financial disclosure process for a particular agency. If you will recall, the general counsel for the University of Oklahoma mentioned that he has one full-time staff member who handles the financial disclosure process for the University. Internal costs handled by each agency for over 200+ agencies.

Walker has presented a proposal that would eliminate the policy on purchasing provisions in the rules. This alone will assist some of the larger agencies. It is hard to figure out who handles the purchasing activity for large agency.

Slater hopes that the Commission will consider how to enforce the financial disclosure rules. In addition, how is the agency going to allocate the resources to administer the financial disclosure rules? He has some power point presentations available for the Commission to review some questions.

Questions:

1. Should the Commission require financial disclosure?
2. What purpose or purposes should the financial disclosure serve? Conflicts of interest? Are there other areas?
3. Once the purposes are determined, does the proposed rule meet the purpose of financial disclosure?
4. Does it require a reasonable allocation of resources?
5. Is it reasonably enforceable? What are the options for enforceability?

Ms. Hale passed out a handout to the Commissioners. The handout lists who files under the current rules, what information is required now and when reports should be filed? In addition, a copy of the form is included.

Ms. Black handed out copies of the Rule 3 Financial Disclosure to the Commissioners - the actual language of the rules.

Slater asked the Commission to start with the first question of whether financial disclosure is required in Oklahoma.

Walker asked for a break after this segment of the meeting.

Slater also mentioned that the staff has a dry erase marker, board and easel available for note taking.

Chair Long started the discussion. Do we need financial disclosure at all?

Slater mentioned that Vermont, Idaho and Michigan have no financial disclosure rules.

Pettigrew mentioned that the down side of not having financial disclosure makes it difficult to bring transgressions to light.

Stocker mentioned that in theory it should work. However, currently, the form doesn't disclose any real conflicts of interest. She is in favor of a process that will disclose a true conflict of interest. Right now, the form doesn't disclose anything.

Pettigrew said that she believes that the Commission should be reviewing the rule and the form at the same time. Now, we need to talk and address what the Commission should really do with the existing limitations and not repeat what the Commission has done in the past. It should be agreed that the Commission has not diligently reviewed the process to ensure that the process works.

Chair Long mentioned that if the Commission gets diligent about the process; it could hire an auditor to do random checks of the financial disclosure forms filed. Is this what the Commission wants to do with agency resources? The follow-up question is what is Commission likely to find? Did some filers fail to disclose information? What if that same information has nothing to do with their service on a Board or their candidacy? How does the Commission proceed?

Long also mentioned that are a lot of people that file under the current rules. Does the Commission need to determine whether a filer has a conflict of interest as to a specific Board? Does the Commission know enough about the Board to know if something would be a true conflict of interest? In the end, the form is over substance; it depends on how the filer answers the form. She believes that there does need to be financial disclosure because it fits in the political correctness of society. She struggles with the entire idea of the financial disclosure process. Does the process truly reveal a true conflict of interest? Does the disclosure truly identify a conflict of interest or do we just have financial disclosure to fit in with the perception of society?

Chair Long wants a financial disclosure process that is meaningful

and truly identifies a conflict of interest. It is just a politically correct answer to require financial disclosure by certain filers without ensuring that the process works in the end.

Pettigrew mentioned that the important thing to remember throughout this process is whether the forms are being utilized by the staff, other agencies, etc.

Slater stated that in the last two years, the agency records reflect that there have been 148 open record requests for financial disclosure forms. The majority of those requests are from the State Auditor's office during their routine agency audits. The second biggest category is from candidates doing opposition research on their opponents. There were 12 news media requests over the last two years.

Pettigrew mentioned that if the Commission really believes that the financial disclosure process is not really required, would the Commission go with a simpler process such as Commissioner Hawkins' proposal of a form that would require someone to sign that they understand the rules rather than completing an entire form? Nothing would be reported in dollar amounts on the form.

Chair Long stated that we need to move back to the rule rather than discussion on the form. She asked Commissioner Walker to discuss his opinion of the practical issues regarding financial disclosure.

Walker is in agreement with Pettigrew and Stocker. The Commission needs to look at this philosophically. He agrees with all the criticism of the process. The current rule and the form that implements the rule is a waste of time. From his perspective, the philosophical end is to reveal instances where a public officer or employee has a relationship with the State of Oklahoma from which he or she makes money from a decision he or she made.

He provides an example of a DHS Commissioner. He owns a company that does paving work. If the paving is the parking lot at the DHS office, it might be relevant to disclosure such information. He believes that his job is to create a rule and then the form that reveals that particular interest. The media then can take that information and do research on the subject matter to see if it matters that he serves as DHS Commissioner and owns the paving company.

Walker arrived at his proposal due to relationships with the State of Oklahoma. His proposed rule is not perfect. He will continue to work on his proposal.

Chair Long mentioned that Walker's example does make a good impression. It is a sensible approach. It provides a discussion on relationships that people possess within the State of Oklahoma. If a person meets the criteria to file then that person should be

required to disclose a relationship within the State of Oklahoma.

Walker mentioned that all state officials take an oath and public officials violate it all the time. There will always be people that will disregard the rules.

On the other hand, Chair Long mentioned that some people that meet the criteria to file a disclosure statement would be requested to disclose a contractual relationship with the State of Oklahoma. If that person is dishonest in their responses, then it may disqualify them from service.

Hawkins added to the discussion. In his mind, he believes that there is only one question to be asked. Has the filer completely read Rule 3 and do you agree with the rule? The response is either affirmative or in the negative. It is not the responsibility of the Commission to hold someone's hand if they are appointed to a position or if a person decides to run for office. I guess it is two questions. Have you read the rule and do you understand the rule?

He doesn't believe that it is the responsibility of the Commission to gather the information for other people to use. He thinks that the process is being made more complicated than the process needs to be.

Pettigrew mentioned that the Commission should look at the current rule and go point by point through the rule to see if that point is still necessary. If we get to the end and there isn't anything there, then do we need the form? Can we change the rule? Can we really justify having policy makers file the form? There are thousands of policy makers within the State of Oklahoma.

Walker stated that everyone is in agreement that the current process is not working. He would suggest that we continue with the philosophical discussion. He has put his proposal in writing and he has received criticism. We should be required to put something in writing for the next meeting. All the Commissioners need to state their positions.

Slater asked for a little more input so the staff can draft a rule. He was hoping that the discussion would include who is required to file, what needs to be reported and when does it need to be reported. Those three questions would assist the staff in drafting the rule.

Commissioner Hawkins has made his opinion known. He wants a simple acknowledgement of whether the filer understands the rule.

Chair Long asked to move to the purposes of the rule. Walker has asked the Commissioners to put their stance in writing. Long wants to hear more discussion on the purposes of financial disclosure. Walker has given a pretty clear example of his

proposed purposes.

Walker believes that the process goes beyond the Press. Those folks that are considering an appointment can use our form for additional disclosure. For example, if the Chief Justice considers reappointing Walker to the Commission, he can review his form for consideration when the time comes

Pettigrew wants to know if a person is doing business with the State or is engaged in a business that may do business with the State. She doesn't believe that the Commission should inquire of someone as to their financial resources.

Chair Long believes that an elected officials or state officials would be required to file a financial disclosure form. Pettigrew doesn't believe that everyone involved with the policy making process should be required to file. The interest might be for the agency head to file a report. She believes that candidates for office and elected officials, they should be required to file. The Board or Commission should be the ones to decide if someone has a conflict of interest.

Slater asked for clarification about the financial conflicts of interest.

Stocker mentioned that the rule should address financial conflicts of interest. Her initial reaction is that she is in favor of financial disclosure. She isn't sure on how to accomplish financial disclosure that will truly identify conflicts of interest. She doesn't know where to begin to ask the right questions.

Chair Long does believe that the process must hold fast and ask the right questions. She doesn't believe that a few questions are satisfactory. She would review the rule and then review who would be required to file the form. Does the disclosure of a relationship with the State impair the ability of a certain person to conduct official state business and serve in a public office? She likes the idea of asking the question of whether they read the rule and having that person disclose whether they have any interests that fall within a certain part of the rule? The approach of Commissioner Hawkins is attractive but she would require more questions.

Hawkins reads from the form that the staff drafted for a candidate financial disclosure form. He thanked the staff for drafting the form. The form has seven questions. Question four on his proposed form asks for the filer to disclose any financial interests. It doesn't ask for dollar amounts and for specific interests. It simplifies the process dramatically. It is clear and easy to understand. Most people will understand that if they have a situation it might impair their ability to serve on a board.

Chair Long asked if there was a general agreement that state elected executive, legislative and judicial officers should be

required to file the disclosure form. Should members of boards and commissions be required to file the form? Hawkins' form is not as intrusive as the current form.

Walker mentioned that we must include all the governing boards. There are some boards that have more authority than other boards. The State Board of Education has tremendous power. The Board makes all the decisions and the staff implements those decisions. He doesn't believe that the Commission could make a distinction. He favors including all the boards. He favors making the form intrusive.

Chair Long asked if all employees who make policy decisions be included in the list to file? Slater mentioned that it is impossible for most agency liaisons and our staff to determine who is required to file as to who handles policy decisions.

All the Commissioners were in agreement to eliminate employees who make policy decisions from the list of all required filers.

Slater stated that purchasing decisions are defined. It covers a whole lot of people. The employees change in and out of the purchasing process. It is a nightmare for the agency liaisons to identify those employees since they change all the time. Chair Long brought up the example of the OU employee who might make a purchasing recommendation on a certain piece of medical equipment be required to file the financial disclosure form.

Chair Long said that the enforcement process on the financial disclosure rule becomes more and more difficult since the Commission won't be able to determine who is required to file the form as to employees who are engaged in purchasing decisions. Does the Commission know if the agency itself is identifying the correct personnel who engage in the purchasing process?

Hawkins asked a question of what happens if the Commission does away with the form entirely. Or the process entirely? What is the result of the State of Oklahoma not having a financial disclosure form?

Slater mentioned that the State would receive an "F" grade as to financial disclosure program. In terms of what happens otherwise, there have been very few illustrations of a financial disclosure form that has been involved in any activity by the Commission.

Hawkins stated that if someone receives a financial gift for making a certain decision, then that person has violated a rule. The Commission would not be the entity to prosecute for that violation. He is moving away from maybe. He wants to weigh the benefits of the financial disclosure process. What happens with the information provided if there are underlying laws that prohibit such activity? What does the Commission gain from administering the financial disclosure process?

Chair Long stated that the Commission does struggle with certain steps within the financial disclosure process. One thing to remember is that as a Commissioner of the Ethics Commission; she files the form. There are higher priorities for the Commission. She does believe that there is a level of expectation for disclosure by certain individuals. She does believe that certain people should be required to file. Does the public have the right to know more information on a person running for Governor, Lt. Governor or a legislative seat?

As to the example of the State Board of Education, the members of that Board have a lot of power. Should they be required to file a disclosure form? If someone is serving on a certain board and that person has a contract with the State, they should be required to file a disclosure form so that the information becomes public.

From the point of the press, there is an expectation in place for transparency by this Commission. The information might be irrelevant sometimes but for most Oklahomans, there is an expectation to provide such transparency when people are campaigning for office or have been elected to office.

Walker asked for a break. Chair Long asked the staff if they had enough information to begin the revision of the rule. Slater said they have some information to get started on the revision.

Off the record at 12:15 p.m.

Back on the record at 12:25 p.m.

Executive Director's Report

Slater said that he sent a letter on September 17, 2015, to state agencies that had neither a legislative liaison nor lobbyist registered with the Commission asking them to explain why they believed they were not required to have a liaison. He said that seven had responded, one of which is not required to have a liaison, while the other six indicated that they will register liaisons for the 2016 legislative session. He said he would follow up on the other four agencies.

Slater said he sent electronic mail to 15 candidates for the 2016 elections addressing reporting issues on their second quarterly reports that were filed in July. Most were asked to file amended reports, and to date, two have done so.

Slater said he sent letters on October 7, 2015, to five 2006 candidate campaign committees and seven 2008 candidate committees, asking them to dissolve their committees no later than December 31, 2015.

Slater said that of the 24 late filing fees for lobbyists and liaisons assessed in July, two were dismissed by the administrative law judge and 20 of the remaining 22 have paid their fees.

He said two executive lobbyists were late in filing their October reports and have been assessed fees, one for \$100 and the other for \$200.

Slater said state employees will receive credit from the Office of Management and Enterprise Services for attending the Commission's continuing education classes.

Slater presented the Commission with dates of continuing education programs on the Commission schedule, including a lobbyist continuing education class following the Commission's November 13, 2015, meeting and a candidate continuing education program scheduled following the Commission's December 11, 2015, meeting. Those classes will begin at 2 p.m.

Slater reported that new Guides incorporating changes in the Ethics Rules were now available on the Commission website.

He said that he shared the platform with Glenn Coffee at a continuing education program for the Regents for Higher Education, that he spoke to an Oklahoma Bar Association-sponsored continuing legal education program and that he joined Ashley Kemp, Geoff Long and Stephanie Black in presenting six programs for county election board officials sponsored by the State Election Board.

Slater said 40 individuals were trained in use of the Guardian software on September 21 and 24, 2015. 48 people were registered for training classes on October 15 and 16, 2015. He commended Ms. Hale and Pam Williams for their work in conducting the classes.

He said he would appear at the Oklahoma City Chamber of Commerce Practical Politics Seminar on October 21, 2015.

At the last two meetings, we had functionality in the UAT site that has been pushed to production. We are hoping to be able to demonstrate that functionality at next month's meeting. The biggest new feature is Quick Stats. It analyzes all the data currently filed in the system. It presents the top ten candidate committees receiving funds and ranks all the committees.

The data is uploaded nightly. There are stats regarding lobbyist principal expenditures and lobbyist expenditures. There will be two more categories in the next round of testing.

The software has integrated the House and Senate Districts from the last redistricting. It will show a map of the State of Oklahoma divided into house districts and senate districts. You can click on a district and you can see who has a campaign committee for a specific district. In the next round of implementation, the names will be hyperlinked so you can see the reports tied to the

candidates. We are hoping to be able to demonstrate this functionality for the Commission at the next meeting.

Chair Long thanked the staff for the intense work on the agency website and the new reporting software. She is glad to have the amount of information available for the public to view.

Slater mentioned the COGEL conference is scheduled for December in Boston. No members of the Commission have signed up to attend. Two staff members are scheduled to attend the conference.

Chair Long asked if any of the Commissioners were going to attend the conference. Kemp mentioned that Mr. Long and she will attend the conference.

General Counsel's Report

General Counsel Long briefly discussed two Federal Election Commission Advisory Opinion requests relating to interactions between Super PACs and Candidates and calculating the market size for electioneering communications. He stated he would continue to track this Advisory Opinion requests.

Consideration, Discussion and Proposed Action on Closed/Executive Session

Statement by Attorney is listed as Agenda Item 11 (a).

Walker moved to go into Closed/Executive session. Stocker seconded. Roll was called and the vote was as follows: Walker – yes, Stocker – yes, Hawkins – yes, Pettigrew – yes, Long – yes.

**Motion carried to go into Executive/Closed session at 12:42 p.m.**

**Executive session was held in the Conference Room located within the Ethics Commission office in the Capitol basement, Rm. B-5.**

Possible Action to Return to Open Session

Walker moved to reconvene in open session at 1:06 p.m. Hawkins seconded.

Roll was called and the vote was as follows: Walker – yes, Hawkins – yes, Stocker – yes, Pettigrew – yes, Long – yes.

**Motion carried.**

New Business

No new business.

Nomination, consideration and action on election of Commission Chair for 2015-2016.

Commissioner Pettigrew has requested to make a statement today prior to proceeding on this agenda item.

Pettigrew has served as Vice-Chair for the last year. Often, the Vice-Chair assumes the position of Chair for the upcoming year. She has spent a lot of time thinking about this process the last few

months. She has decided that she doesn't want her name submitted for Commission Chair at this time.

She nominated Stocker for Chair and Hawkins for Vice-Chair.

Chair Long mentioned that a nomination/motion has been made for Cathy Stocker to serve as the Chair. Hawkins seconded.

Roll was called and the vote was as follows: Pettigrew – yes, Hawkins – yes, Walker – yes, Stocker – abstain, Long – yes.

**Motion carried.**

Cathy Stocker will serve as the Commission Chair for the 2015-2016 year.

Nomination, consideration and action on election of Commission Vice-Chair for 2015-2016.

Commissioner Pettigrew made a nomination/motion for John Hawkins to serve as Vice-Chair for the upcoming year. Stocker seconded.

Roll was called and the vote was as follows: Pettigrew – yes, Stocker – yes, Hawkins – abstain, Walker – yes, Long – yes.

**Motion carried.**

John Hawkins will serve as Commission Vice-Chair for the 2015-2016 year.

Adjournment

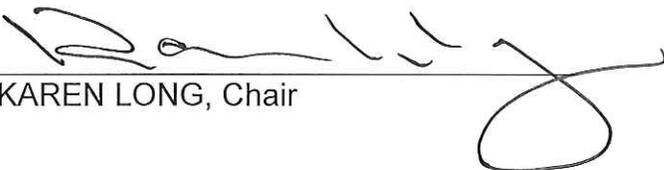
Stocker moved to adjourn. Hawkins seconded. Roll was called and the vote was as follows: Stocker – yes, Hawkins – yes, Walker – yes, Pettigrew – yes, Long – yes.

**Motion carried.**

Meeting ended at 1:15 p.m.

  
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LEE SLATER, Executive Director

Approved on Behalf of the Commission:

  
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KAREN LONG, Chair