

MINUTES OF PUBLIC HEARING AND REGULAR MEETING
OF THE ETHICS COMMISSION
STATE OF OKLAHOMA
HELD MARCH 13, 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, March 13, 2015, at 10:02 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"], Jo Pettigrew ["Pettigrew"], and Long. A quorum of members was declared.

Staff & Visitors

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

Observing all or part of the meeting: Dana Esparza, Agency Liaison; Glenn Coffee, Attorney; Caroline Dennis, Senate staff; Samantha Davidson, Senate staff; Darci McKee, Campaign Technologies; Barbara Hoberock, Tulsa World; and Shawn Ashley, E Capitol News.

Introductions and Announcements

No introductions at this time. Director Slater announced that Barbara Hoberock is the new dean of the press corps.

Consideration, Discussion and Possible Action on Minutes for Public Hearing and Regular Meeting held January 9, 2015, and minutes for Regular Meeting and Executive Session held on February 13, 2015.

Walker moved to approve minutes for public hearing and regular meeting held January 9, 2015, and minutes for regular meeting and executive session held on February 13, 2015.

Stocker seconded. Roll was called and the vote was as follows: Walker - yes, Stocker - yes, Hawkins - yes, Pettigrew - abstain, Long - yes. **Motion carried.**

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

No discussion on agency expenditures.

Executive Director's Report.

Slater said Senate Bills 347 and 348, relating to the Commission revolving fund and declassification, respectively, had been approved by the Senate with the titles restored. He expressed his appreciation to Senator Jolley, the Senate author and Representative Billy, the House sponsor, for their work on the legislation. Slater said the only other legislation related to the Commission that was still in the process was Senate Bill 438, sponsored by Senator Sparks. It is legislation that permits cities to write their own comprehensive ordinances for campaign finance and financial disclosure. Slater said the Commission would be removed from enforcement responsibilities in such cities and that the bill's title had been removed.

Slater said his appearance on The Verdict would be aired on Cox Channel 3 in Oklahoma City and Cox Channel 3 in Tulsa at 9 a.m. on Sunday, March 22 and at 9:30 a.m. on the following Monday and at 10 a.m. on the following Tuesday and Wednesday.

Slater said that at the request of Vice Chief Justice Combs, he had written an article for the Supreme Court's website and that it was now featured on the website.

He said he would address the Governor's Energy Cabinet agency directors with regard to legislative liaisons later in March.

Slater said the Energy Cabinet appearance arose as a result of his presentation to the Governor's Cabinet on February 18. He said he expected to discuss additional Ethics Rules with the Cabinet at subsequent meetings.

Slater said a lobbyist continuing education program was scheduled for 1:30 p.m. today, and that registration had been cut off with a full complement of 50 registrants.

Slater said he was scheduled to appear before the Senate Democrat caucus on Monday and before the Oklahoma Public Resources Association on March 27. Slater said the Commission sent 53 late filing notices in February for the January lobbyist expenditures report and that the number of such notices had dropped to 32

in March for the February report, including seven repeat offenders who had received special attention. He said that as of Thursday, all lobbyists and legislative liaisons had filed their required reports.

Report regarding Guardian Software by Deputy Director Kemp

Quest continues to develop new functionality for the new software and Wednesday of this week the latest testing site was made available to the staff.

In this testing environment is the ability of registered committees such as candidate committees, political action committees, political party committees and special function committees to enter contributions, transfers and expenditures.

While we test, Quest is making finishing touches on the functionality for loans, personal financial disclosure, EDI (electronic data interchange) entry and filing capabilities. When those functions are completed, they will be added to the testing environment.

April 1st is the target date to release it to the public which marks the first day that Committees can file their 1st Quarter 2015 reports. They have the entire month of April to file their 1st Quarter reports.

Once committees are able to enter data and file reports, and users can file their financial disclosures, the software project will focus on the final functionality we need, such as mass communication with the regulated community, auditing, statistics and fixing any outstanding issues.

General Counsel's Report

General Counsel Long discussed *United States of America v. Tyler Eugene Harber* in the United States District Court for the Eastern District of Virginia. This case involves the criminal prosecution and conviction of an individual for coordinating independent expenditures with a federal candidate campaign. General Counsel Long discussed some of the facts of the case that led to the conviction. General Counsel Long stated this is the first prosecution of this type at the federal level and is an important development in the regulation of independent expenditures.

Power Point presentation and Discussion of current financial disclosure rules and Commission and staff discussion of possible reforms of current financial disclosure rules.

Director Slater discussed that the main purpose of the financial disclosure rules is to identify and detect potential conflicts of interest. If that is the main reason for financial disclosure, do the current rules serve the purpose to identify potential conflicts?

Historically, financial disclosure for state officers and employees came into existence in the mid to late 1980s. The Legislature wrote the first Ethics Commission statute governing financial disclosure. It was in response to the states surrounding Oklahoma enacting financial disclosure rules. The financial disclosure requirements have changed very little over the years.

Slater filed a financial disclosure form back in the 1980s; the current rules are not much different than the rules in the 1980s. The Ethics Commission was created constitutionally in the 1990s and the Commission adopted the financial disclosure rules from the statutes. Since then, there has been very little discussion on financial disclosure rules. This will give the Commission the opportunity to review the existing financial disclosure rules.

Most regulatory boards and commissions fall within the rules to file financial disclosure. With regard to some Boards, there is almost a built-in conflict. Slater discussed the membership compilation of the Board of Chiropractic Examiners, Board of Licensure of Professional Engineers and Land Surveyors and the Oklahoma Real Estate Commission. There is almost a built-in conflict when the Board Members list their occupations because they have to be licensed in those professions. These are not atypical organizational structures for most of the boards that the Commission regulates through financial disclosure.

Both the Constitution and Statutes have laws in place regarding conflicts of interest. There are severe penalties in place for violations of those laws.

In our rules, we also have the prohibition for a number of conflicts. Rule 4.7 requires disqualification when there is a question of the impartiality of the state officer participating in a particulate manner. Rule 4.8 prohibits vendors from providing gifts of any kind to any state officer or employee if that officer or employee is involved

in the purchasing process. Rule 4.9 sharply curtails gifts that can be made by vendors doing business with state agencies to that agency's employees. Rule 4.10 prohibits gifts from anyone that is licensed or regulated by the agency to any employees of that agency. Slater believes that the Commission needs to review all the current rules in place when asking the question if financial disclosure rules are required.

Slater commenced with the Financial Disclosure power point presentation.

State Officials - Who Files? 187 elected state executive and legislative officers, 11 statewide officers, 149 legislators and 27 District Attorneys.

Judiciary – Who Files? 182 judicial officers, 9 Supreme Court Justices, 5 Court of Criminal Appeals Judges, 12 Judges of the Court of Civil Appeals and 156 District and Associate District Judges.

300+ Candidates for state elective offices in addition to 400-500 agency heads and first assistants also file financial disclosure statements.

State employees involved in policy decisions and purchasing decisions also file financial disclosure forms. In addition, members of boards, commissions and authorities file financial disclosure forms.

In 2014, there were over 7,000 forms filed with the Ethics Commission.

Candidates file the financial disclosure form at the same time they file their Statement of Organization. Agency liaisons identify the state agency filers and assist the Commission with those filings.

The deadline for the annual filing is May 15th. This year the filings will be done online in The Guardian System. For public disclosure, only the name, agency and filing status will be available online.

Commissioner Walker said that this is an opportunity for the Commission to decide if this process is a meaningful exercise on the part of this Commission and staff. Decisions need to be made to make it a lot more

revealing or do away with the process entirely.

Chair Long stated that there are areas of concern, such as the older purpose of the financial disclosure rules in comparison to the current financial disclosure rules. The financial disclosure form itself doesn't do much to identify any real conflicts of interest. After January 1st, a group of school board members became aware of their obligation to file the financial disclosure form. In speaking with them, it has come to my attention that the form doesn't request the information that would help identify any potential conflicts.

These are citizen volunteers and in most districts, they are not paid for their services. Some school board members might receive \$25 a meeting. They have shared their opinions and questions regarding why there is yet another obligation imposed on citizen service and that the form is time consuming. They don't believe that the information requested in the form itself helps to identify conflicts.

In particular, these board members want to know how the form itself identifies a conflict of interest while they are serving on the board of education. They mentioned that there are other rules regarding conflicts of interest in place that regulates their service. There are long-standing existing laws that govern conflicts of interest. The financial disclosure form adds nothing to the existing laws.

The major issue is that there are not enough individuals that file for the school board elections and want to serve on a school board. This is an important service to the 500+ school board districts. The superintendents have shared information with Chair Long that it is already difficult to find someone who might be interested in serving as a school board member but now they have the obligation to complete this form that does nothing to identify any potential conflicts of interest. Some people are concerned that these financial disclosure forms are open records. Some people don't want to serve in public service knowing that they need to file this form. We need to have financial disclosure rules in place that serve the intended purpose. This might mean that we need different forms for different filers. The form needs to be much more specific for each filer.

Chair Long looks forward to public comment from the community. We don't want to continue to draw people away from public service. In an opposite approach, we may determine that financial disclosure is valuable and revise the process to make it work to serve the rules and identify the conflicts of interest. The Commission welcomes public comment as to the current financial disclosure process.

Slater mentioned that the ethics rules only apply to elected state officials and employees. There is a statute in place that applies the current ethics rule to county, municipal and school board officials.

Chair Long mentioned that this is a "spillover effect" from the rules in place. The school board members are filing for the first time due to legislation that was put in place from the last legislative session

Commissioner Hawkins asked a question of what happens to the information once it is collected. Slater mentioned that the staff collects the forms and tries to review the forms for completion. But the current staff doesn't have time to review or audit the filings.

Slater responded that there have been several phone calls regarding the new financial disclosure rules in place for county and municipal officials in addition to the school board members.

Chair Long mentioned that the forms are available for public disclosure upon request.

Commissioner Hawkins mentioned that he doesn't see the value in completing the forms. Why not ask the questions of the filers if they are aware of the conflict rules? The current process is overly time-consuming and the form doesn't work to identify any potential conflicts. He believes that there should be a questionnaire rather than a form.

Commissioner Walker mentioned the forms are available for public disclosure. In litigation, the forms are requested in order to check out the judges assigned to particular cases. The litigants are looking to see if there is a conflict. It is broadly based but there is value to the

form.

Slater commented that the forms are rather intrusive. We don't want to discourage someone from serving in public service.

Commissioner Stocker commented that the previous discussion regarding rules that were being considered was asking about financial information for extended family members. It was making it rather intrusive going outside the immediate family group.

Slater passed out a memorandum prepared by Stephanie Black, the legal intern. The memorandum discusses the financial disclosure rules in the states that represent the 10th Circuit. By far, Oklahoma has the most filers that file financial disclosure forms

The staff will arrange for informal group meetings with various individuals that are affected by the financial disclosure rules. We will schedule those meetings and send out notice to the Commissioners. If more than two Commissioners want to attend a meeting, we can schedule a special meeting for that specific purpose. We want to give everyone an opportunity for public comment. As we know, there are people that will share information at an informal meeting rather than at a full commission meeting.

Consideration, Discussion and Proposed
Action on Closed/Executive Session

Statement by Attorney is listed as Agenda Item 12(a).

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

Motion carried to go into Executive/Closed session at 11:18 a.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 **1:08 p.m.** Stocker seconded. Roll was called and the vote was as follows: Walker – yes, Stocker – yes, Hawkins - yes, Pettigrew – yes, Long – yes.

Motion carried.

14-017:

Walker made the following motion: Madam Chair, I move the Commission to dismiss Complaint 14-017.

Stocker seconded.

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

Motion carried. 14-017 is dismissed.

No further action was taken.

New Business

No new business.

Adjournment

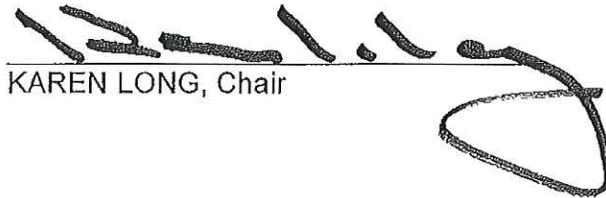
Stocker moved to adjourn. Pettigrew seconded. Roll was called and the vote was as follows: Stocker – yes, Pettigrew – yes, Walker – yes, Hawkins – yes, Long – yes. **Motion carried.**

Meeting ended at 1:12 p.m.



LEE SLATER, Executive Director

Approved on Behalf of the Commission:



KAREN LONG, Chair