

MINUTES OF PUBLIC HEARING AND REGULAR MEETING
OF THE ETHICS COMMISSION
STATE OF OKLAHOMA
HELD JUNE 12, 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, June 12, 2015, at 10:04 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. 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"], and Roberta Hale, ["Hale"].

Observing all or part of the meeting: Jason Ramsey, Oklahoma State University/A&M Regents; Andy Lester, Oklahoma State University/A&M Regents; Susan Lester Orgren, observer; Anil Gollahalli, University of Oklahoma Office Legal Counsel; Jaime Hammer, University of Oklahoma Office Legal Counsel; Glenn Coffee, Attorney; Denise Davick, Attorney; Samantha Davidson, Senate staff; Christie Southern, ECapitol News; Nolan Clay, The Oklahoman; Barbara Hoberock, Tulsa World; Caleb Lueck, Oklahoma House of Representatives counsel intern;

Introductions and Announcements

Director Slater mentioned that there are several distinguished guests in attendance today for the Public Hearing.

Consideration of Possible Amendments to Rule 3 of the Constitutional Ethics Rules

Discussion of Rule 3 by the Executive Director:

Commission staff discussed financial disclosure

requirements at one of the past continuing education presentations. We requested input from the attendees. Slater received a letter from a General Counsel from one of the larger state agencies with comments. Slater read the letter. This General Counsel is requesting that the Commission review the broad applicability of the current forms. It is her belief that the current form serves no useful purpose. However, it causes responsibly compliant agencies a massive amount of oversight to ensure that the appropriate personnel comply with the requirement. It is her opinion that the administrative burden to the agencies and to the filers is not worth the benefit to the Ethics Commission.

In addition, a Senator sent an email regarding financial disclosure. He is not particularly passionate about the issue. However, he doesn't see the need, utility or benefit to the public for the use of the current form and the financial disclosure rules. He thanked the Commission for tackling this issue.

Comments and Questions by Commissioners:

No comments and questions.

Public Comment:

Andy Lester:

Mr. Lester is a private attorney who serves as uncompensated filer for the Board of Regents of the Oklahoma A&M Colleges. He mentioned that he is not appearing on behalf of the Board of Regents today. He is speaking as to his own opinions only. His daughter, Susan Orgren is in attendance today.

He serves with dedicated individuals on the Board of Regents. The Regents work hard and spend hours doing the work that it is expected of each of them and then so much more. They receive no compensation for their service.

He has great appreciation for the work of the Ethics Commission. He is of the opinion that having an effective ethics watchdog is vital to good government. In his professional career, he has represented individuals before this same Commission.

He strongly supports the vital role of the Ethics Commission. He hopes that the Commission will abolish the requirement for uncompensated filers to file the financial disclosure form. The form discloses virtually nothing of interest as to his filing. Someone can review the form and only gather personal information as to his personal life. He has spent many hours every year to file the form, specifically, spending time responding to question #5 on the current form listing the securities.

He mentioned that he pays a fee to someone to manage his personal IRAs. He has to ask that person for a list of all securities held during the filing year. He mentioned that he has spent between 10-12 hours in completing the form and filing the form this year. He knows that it was a new form so maybe that added some additional time.

He said that one of his law partners also serves on a different Board which requires her to file the same form. She mentioned to him that she spent eight hours in completing the form.

In addition to the time that a filer spends in completing the form, there is an administrative process at the agencies that ensure that all the identified filers file the form. It is his understanding that the Ethics Commission seldom reviews or audits the filed forms. The value of the form is extremely limited and the cost to administer the form is substantial.

Commissioner Walker asked a question of Mr. Lester. If the Commission required different information that was designed to reveal a true conflict of interest, would his attitude be different?

Lester mentioned that a different form would be desirable. He mentioned that he has completed a federal form that requested information as to two questions. He would be in favor of a form that took much less time to complete the form if the questions were posed towards a true conflict of interest. He mentioned that the Regents take an oath to serve on the Board so they are aware of the rules that govern their service. He does believe that the current form has no real benefit to the Commission.

Mr. Slater asked a question of Regent Lester. During his eight-year service on the Board of Regents, is there

anything that is on the current form that would indicate a conflict of interest for him?

Mr. Lester mentioned that there is nothing on the form that deals with a true conflict of interest. He finds that the form has no value. He isn't sure that everyone takes the amount of time he spends on the form. Why does the State care as to what stocks he owns?

Chair Long thanked Mr. Lester for his comments.

Anil Gollahalli:

He serves as the General Counsel for the Board of Regents of the University of Oklahoma. He is also the agency liaison for financial reporting. He echoes the comments of Regent Lester. He stated that he appreciates the openness of the Commission to review the financial disclosure rules and modify such rules in the past.

Do the costs outweigh the benefit of disclosures using the current form? First, he believes that the current form is overly burdensome. Secondly, he would argue that the current form is duplicative of other current rules that speak to managed conflicts of interest. Third, the current form is wholly ineffective.

Currently, the University of Oklahoma has 200+ filers. The Regents, approximately 50 executive officers with purchasing authority and the remainder are the rank and file employees who might participate in a one-time bid process, file the forms. The University brings in people who have knowledge of certain equipment and we ask them to participate in a bid process due to their expertise. These are generally one-time filers.

As to financial reporting, there is a rolling mechanism which requires that the initial report be filed within thirty days of a filer being added to the list. On a monthly basis, his staff needs to review the purchasing process to ensure that all the employees that may have participated in a bid process are added to the list to file and, subsequently, they do file their forms. In addition, there is the administrative burden to track down all the employees who left the University and provide updated information to the Ethics Commission.

He stated that there are a variety of ethics rules to ensure that a filer doesn't use his state office or state employment for personal gain. Rule 3 of the ethics rules was designed to catch someone breaking the rules. However, the form doesn't work to achieve that goal.

He mentioned that there is some duplication in rules. The University has rules that govern their employees; specifically there are conflict of interest rules. We work with all of our purchasers before they engage in purchasing to ensure they follow all the rules.

The form as it exists right now isn't effective. At the university level, our purchasing threshold is \$1,000,000.00. So the University purchases lots of items for \$50,000.00. He doesn't believe that the Commission needs to do away with the use of the form for certain filers. He will continue to work with the Commission staff to give input as to the development of the new rules.

Sometimes, we have employees who decline to participate in the bid process, because they don't want to complete the form. The current form and the financial disclosure rules are not achieving the intention of revealing a true conflict of interest.

Chair Long asked a question of Mr. Gollahalli. If the Commission were to continue some sort of financial disclosure, what would be the recommendation of Mr. Gollahalli as to what individuals should be required to file the disclosure form?

Mr. Gollahalli mentioned the distinction between an advisory person and the actual person making the purchase. When there is a bid process, the State is receiving the best price. The bid process has rules in place to determine if any conflicts exist. If the purchasing involves a sole source vendor, then that would be a different circumstance.

He also mentioned that the form is overly burdensome to an uncompensated filer. He doesn't believe that uncompensated filers should have to file the form.

Director Slater asked a question of Mr. Gollahalli. Slater asked as to how much time Mr. Gollahalli or his staff

spends administratively managing the university's list, checking as to which filers have filed their report and answering questions of those filers.

Mr. Gollahalli indicated that his staff spending hundreds of hours annually compiling the list in December, reviewing the purchase decisions, identifying the required filers, monthly reviews of purchasing activities, contact with the university's filers to get the forms completed in addition to the communication with Commission staff as to assisting filers with the new online system.

Because of the rule changes last year, we are informing the university employees of their requirement to file the form prior to participating in a bid process.

Mr. Gollahalli mentioned the hours spent relates to thousands of dollars being spent by the university. The time mentioned today doesn't include the time required by the filers to complete the form.

Mr. Gollahalli thanked the Commission to be given the opportunity to offer public comment.

Chair Long thanked everyone for their participation at today's public hearing. Thanks to everyone for allowing the Commissioners to ask questions.

Comments and questions by Commissioners and staff:

The Commission will continue to schedule public hearings to hear comment as to the current financial disclosure process.

Director Slater mentioned that one of the frustrations is the amount of time the Commission staff spends filling out the forms for filers from other state agencies. That is a consideration that the Commission ought to review in the process. The process that Mr. Gollahalli just described is typical of the larger state agencies. They spend a great deal of time to comply with the financial disclosure requirements.

Chair Long mentioned that the discussion has been focused around a cost benefit analysis. Some of the

Commissioners here today have some of the same experiences as they are uncompensated filers and are required to file the form. Most public servants have come to expect a level of intrusiveness if they serve the State. If the rules were designed to point out a sincere conflict of interest, most filers will gladly complete the form.

Commissioner Hawkins asked if the staff has had the opportunity to look at the financial disclosure rules from other states. Slater mentioned that the rules of other states are all over the map.

Counsel Long mentioned that he has yet to see anything that is a clear example of a direction that Oklahoma wants to follow. Some states require much more information than the current rules in Oklahoma. Many states are in the same sort of situation like Oklahoma. There are several states that have fewer filers than Oklahoma. They only require financial disclosure of candidates and state elected officials.

Commissioner Hawkins mentioned that the securities industry tackles things with affirmative answers. Possibly, we could ask a few questions and just require a yes or no response. He believes that our job is more of an educational process. We need to come up with a reasonable position for actually inquiring of those things that lead to the answer.

Chair Long thanked everyone who was in attendance and stated that the Commission has benefited from the comments given today.

Consideration, Discussion and Possible Action on Minutes for Public Hearing and Regular Meeting and Executive Session held on May 8, 2015.

Director Slater mentioned that he passed around a sheet of possible motions that could be used for each of today's agenda items. This is the first agenda item that requires a motion. The sheet was prepared to help in presenting a motion.

Walker mentioned that a typo exists on page 7 of the proposed minutes. Last paragraph has the word "tonflict" and it should be changed to "the conflict." Walker moved to approve the amendment to the proposed minutes to correct the type "tonflict." Hawkins seconded.

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

Motion carried.

Walker moved to approve minutes as amended for the public hearing, regular meeting and executive session held on May 8, 2015.

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

Motion carried.

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

No discussion was held.

Executive Director's Report.

Slater noted that both bills requested by the Commission, Senate Bills 347 (dealing with the agency's revolving fund) and 348 (declassifying agency personnel) had been signed into law by the Governor on April 21. He said another bill; Senate Bill 438 (allowing municipalities to provide for their own campaign finance and financial disclosure laws) was signed by the Governor on May 20.

Slater said that upon sine die adjournment, the 2015 amendments to the Ethics Rules became effective.

He also said that the Commission received a small increase in its appropriations, noting that the Commission was one of a handful of entities that received an increase. He expressed appreciation to Governor Fallin and leaders of the House and Senate as well Senator Clark Jolley, chair of the Senate Appropriations Committee and Representative Earl Sears, chair of the House Appropriations Committee, for their support in making the appropriation. He said that carryover appropriations for the last two fiscal years also were re-appropriated.

The funding will permit the appointment of a Director of Compliance and an additional support position for the Commission staff, Slater said. He said efforts would be underway soon to fill those positions.

Slater said only 19 lobbyists or liaisons had failed to file May reports of expenditures by the June 5 deadline, and

that that number was reduced to three as of the current date. He said that 4,663 were required to file financial disclosure statements, and 4,262 (91.4%) had done so.

Deputy Director Kemp presented the software update. She mentioned that Commission staff and the vendor, Quest, worked on an ambitious timeline to try to complete the implementation by June 30, 2015. Core functionality will be in place by the end of the month but implementation will not be completed by the deadline of June 30, 2015. An addendum to the contract will be added to accommodate the extension.

Currently, we are entering the last phase of the implementation project to include payment processing for all entities, not just lobbyists, final filing functionality for special committees, auditing and system warning capability, filing access for entities not required to register in Oklahoma but to file only reports, quick statistics on various information stored in the system and ongoing cleanup to correct previously identified but not critical issues.

Additionally, she has provided the information to Quest for the software changes required due to the rule amendments going into effect. Shortly, Quest will provide an estimate on both the cost and time frame for those changes to be made. System changes will need to accommodate the rule changes for non-state party committee filing requirements. A Special Committee type for conference disclosure will need to be added to the system in addition to capability of displaying the scholarship form being filed by state officials.

Commissioner Hawkins asked a question of Deputy Director Kemp. He requested clarification as to the entities that are required to file and/or not register with the Commission. Deputy Director Kemp mentioned that the new rules don't require an out-of-state political action committee or a federally registered political action committee be registered in Oklahoma. Out-of-state committees are only required to file ad hoc reports when they have Oklahoma campaign activity to report.

Director Slater mentioned that the focus of the new rules is that we are only concerned with Oklahoma activity by the non-Oklahoma committees.

Slater said he was working on a schedule for compliance fees under the new Rule amendment. He said he anticipated late filing fees being assessed in July for lobbyist expenditure reports, noting that lobbyists and liaisons have had six months and a complete legislative session to get acquainted with the monthly reporting regimen. He said he anticipated that the compliance fees would distinguish between in-session and interim filings and, for campaign contributions and expenditures reports, he anticipated that the compliance fees would distinguish between pre-election reports and quarterly reports. He also said he anticipated the fee schedule would take into account repeat offenders.

Commissioner Hawkins asked a question of Deputy Director Kemp. He requested clarification.

General Counsel's Report

General Counsel Long stated he had no updates to report this month.

Consideration, Discussion and Possible Action on Schedule for Registration and Administration Fees for Legislative Liaisons, Legislative Lobbyists, Political Action Committees and Candidate Committees

Director Slater pointed out one of the amendments to the rules requires the Commission to publish on the website a fee schedule by July 1 of each year. The fee schedule addresses any registration and administration fees for the groups mentioned. Currently, the only groups that are paying a fee are the legislative liaisons, legislative lobbyists, and executive lobbyists. Those groups pay a \$100 annual registration and administration fee.

In the past, the Commission has charged a \$50 annual fee for political action committees. To his knowledge, the Commission has never charged a registration fee for lobbyist principals and candidate committees.

Under the old rules that were repealed on December 31, 2014, he doubts that the Commission could have charged a candidate committee registration fee because everyone was required to register a candidate committee. Under the new rules that became effective January 1, 2015, only those candidates that spend or raise more than \$1000 are required to register with the Ethics Commission.

Slater referenced the memo that was handed out to all the Commissioners. The Ethics Commission is unable

to carry over remaining funds from previous fiscal years. The FY2016 base appropriation is \$775,827. Those funds from previous fiscal years were held in abeyance. The Legislature re-appropriated the money from FY2013 and FY2014 back to the Ethics Commission. So the total appropriation is \$837,229 for FY2016, in addition to the revolving fund balance of \$160,773, allowing for the total funds available of \$998,002.

If the fee is left at \$100 for legislative lobbyists and liaisons, the Commission will receive \$50,000 for those registration fees. So for summary, the FY2016 budget without new employees is \$701,876. If the Commission hires the Compliance Director, the FY2016 budget will be \$811,216.

Deputy Director Kemp is in negotiations with the Office of Management and Enterprise Services for the annual hosting cost \$48,000 for the software for the next three years with already set-aside funds from the software appropriation in FY2015.

Be mindful that as changes are being made to the ethics rules, then the Commission is under obligation to make software changes to accommodate those rule changes. Slater hopes the memo assists the Commissioners with deciding on a fee schedule.

In addition, it will not be an unprecedented practice if the Legislature looks at the amount of our revolving fund next year and pulls in those funds with our annual appropriation. Just because there is money in the Commission's revolving fund doesn't mean the Commission can spend it the way they want to spend it. That is the background for the memo that shows a variety of fee scenarios.

Stocker asked what is the source of the revolving fund. Director Slater answered that the source of the revolving fund is the \$100 registration fee imposed on legislative liaisons, legislative lobbyists, and executive lobbyists paid this past year in December 2014.

Hawkins asked for a clarification of the number of political party committees, political action committees and candidate committees. Director Slater referenced page sixteen in today's open meeting materials.

Slater mentioned that it is reasonable to plan for 800 lobbyist principals.

Stocker asked for clarification as to the basis for the calculation of partially recovering the costs of regulating the filing community. Director Slater mentioned that the salary for the two support staff would be some of the costs, in addition to Counsel Long spending a huge amount of time answering questions for the regulated community.

Slater mentioned that it is very difficult to determine what portion of the budget is related to administering our reporting requirements. Just about everything that the Commission staff does, with the possible exception of enforcement action, is related to administering the reporting requirements.

Chair Long asked if the Commission were to adopt Plan E, is it the opinion of Director Slater that we would still be safely within the reporting requirements? Slater advised, yes, he would agree.

Walker made the following motion: Madam Chair, I move the Commission adopt the following schedule of annual registration and administration fees: legislative liaisons, \$100; legislative lobbyists, \$100; executive lobbyists, \$100; political party committees, \$200; political action committees, \$200; and candidate committees, \$100.

Stocker asked Walker to give an explanation of his proposed fee schedule. Walker mentioned that the first three categories are people just doing a job. Liaisons and lobbyists are performing a job. Candidates want to go into public service. The remaining three categories are people who want to make money from the government. They seek an advantage over someone.

No second to the motion. Walker's motion dies for a lack of a second.

Stocker made the following motion: Madam Chair, I move the Commission adopt Plan E schedule for annual registration and administration fees to be effective July 1, 2015: legislative liaisons, \$100; legislative lobbyists, \$100; executive lobbyists, \$100; political party

committees, \$100; political action committees, \$100; and candidate committees, \$100.

Hawkins seconded. Roll was called and the vote was as follows: Stocker – yes, Hawkins – yes, Walker - no, Long – yes.

Motion carried.

Director Slater mentioned that the lobbyist principal fees would be collected at the same time as the registration fees for lobbyists. Most of those funds will be paid in December. Political party committees and political action committees will register in January. The registration fees for candidate committees will be staggered as they continue to register throughout the year.

Fee schedule will be effective July 1, 2015.

Review of this Agenda Item:

The Commission adopted a fee schedule. After the Executive Session, Director Slater brought to the Commissioner's attention, a concern as to the action taken with regard to the registration fees for candidate committees.

Director Slater provided clarification as to the registration fees for candidate committees. Fees for candidate committees should be based on campaigns rather than an annual fee.

Commissioner Stocker amends the Motion as to candidate committees only.

Madam Chair, I move to amend the motion made on Agenda Item #8, for the registration and administration fee for candidate committees. The \$100 fee should be per campaign.

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

Motion carried.

Consideration, Discussion and Proposed
Action on Closed/Executive Session

Statement by Attorney is listed as Agenda Item 10 (a).

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

Motion carried to go into Executive/Closed session at 11:26 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

Stocker moved to reconvene in open session at **2:21 p.m.** Hawkins seconded. Roll was called and the vote was as follows: Stocker – yes, Hawkins – yes, Walker – yes, Long – yes.

Motion carried.

C-15-03:

Hawkins made the following motion: Madam Chair, I move the Commission to dismiss Complaint 15-03. Stocker seconded.

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

Motion carried.

C-15-04:

Hawkins made the following motion: Madam Chair, I move the Commission to dismiss Complaint 15-04. Walker seconded.

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

Motion carried.

C-15-09:

Walker made the following motion: Madam Chair, I move the Commission to determine that the person in

Complaint 15-09 violated the Commission's rules, therefore, a formal investigation be authorized, the staff be authorized to issue subpoenas and the Executive Director be given a reasonable period of time to notify the Respondent, after which he can make the investigation public.

Chair Long asked if there was an intention for the Motion to include that the Commission deem it to be in the public's interest, the existence of a formal investigation to be made public and that the Executive Director be authorized do so after notification to the Respondent as discussed in the Executive Session.

Chair Long asked if Walker would allow for the following Motion to substitute for his motion:

I move to authorize a formal investigation on Complaint Number C-15-03 and determine that there is a reasonable cause to believe that the person or persons named in the complaint have violated campaign finance Ethics Rule 257:10-1-20. In addition, I move that the Commission deem it to be in the public's interest to make the existence of a formal investigation public and that the Executive Director be authorized to do so after notifying or attempting to notify the Respondent as discussed in executive session.

Walker asked Counsel Long if the motion authorizing a formal investigation must include the specific rule involved.

Counsel Long answered that he believes that the investigation is required to identify the specific rule or rules that have been alleged to have been violated and the Commission having the authority to open the investigation is required to identify the scope of those rules.

Walker asked if it was not sufficient to indicate the title of the rules rather than the specific citation. Counsel Long mentioned that it requires the specific rules.

Walker agreed to substitution in motions. Hawkins seconded.

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

Motion carried.

Chair Long asked to go back to review Item Agenda #8 concerning the fee schedule for candidate committees.

New Business

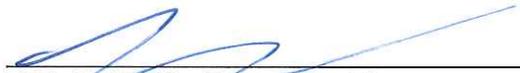
No new business.

Adjournment

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

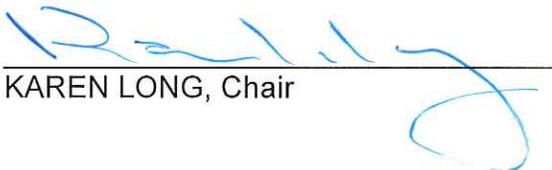
Motion carried.

Meeting ended at 2:30 p.m.



LEE SLATER, Executive Director

Approved on Behalf of the Commission:



KAREN LONG, Chair