

MINUTES OF REGULAR MEETING AND PUBLIC HEARING
OF THE ETHICS COMMISSION
STATE OF OKLAHOMA
HELD JANUARY 11, 2019

Call to Order.

Upon notice, with the 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 forty-eight (48) hours in advance with the Office of the Secretary of State, a regular meeting of the Ethics Commission of the State of Oklahoma ["Commission"] was called to order on Friday, January 11, 2019, at 10:05 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: Chair Karen Long, Vice-Chair Charles Laster ["Laster"], John Hawkins ["Hawkins"], Holly Johnson ["Johnson"] and Cathy Stocker ["Stocker"]. A quorum of members was declared.

Staff & Visitors.

Commission staff members present at all or part of the meeting were Ashley Kemp ["Kemp"], Jan Preslar ["Preslar"], Stephanie Black ["Black"] and Ariel Koerner ["Koerner"].

Observing all or part of the meeting: Melodye Blancett, Representative; Rooney Virgin, OSSBA; Gary Kilpatrick, Citizen; Don Spencer, OK2A; Becky Fleming, Citizen; Amy Anderson, ALEC Action; Trent England, OCPA; Jonathan Small, OCPA; Connie Grimm, Citizen; Ronda Vuillemont Smith, Citizen; Chris Moe, Citizen; David Van, Mental Health; Bryce Smith, Activist; Pamela Street, Activist; David Autry, Citizen; Shawn Ashley, eCapitol; Austin Ray, Ethics Commission Intern; Sara Frano, Ethics Commission Intern; David White, Citizen; David VanRissehem, Press; John Frasune, Cannabis Patient; Jason Hodge, Citizen; Tim Tucker, Citizen; Denise Lawson, Attorney; John Tidwell, Citizen; Brandon Dutcher, Citizen; AJ Ferate, Citizen; Catherine Sweeney, Press; Anne Roberts, Integris; Curtis Shelton, OCPA; Brett Farley, Lobbyist; Austin Harkey, Lobbyist; Alex Weintz, Citizen; Paul Monies, Press; Caroline Dennis, Senate; Arnella Karges, Senate; Allie Shinn, Citizen; Ryan Kiesel, Citizen; Aaron Brillbeck, News 9; Taylor Thornhill, Citizen; John Wood, Citizen; Barrett Brown, Senate; Todd Pauley, Citizen; Clint Colbert, Citizen; Adam Macy, Citizen.

Open Meeting Act Compliance.

In compliance with Open Meetings Act.

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Introductions and Announcements. Introduced Executive Director Kemp's mother who was in attendance. Announced a special meeting will be held, Friday, January 25, 2019 at 10:00 am to further discuss and vote on certain amendments. Those amendments will be made known by the end of the meeting.

This amendment modifies the Campaign Finance Rules in Rule 2 of the Constitutional Ethics Rules clarifying the Rules about coordinated activities to aid in determining what activities will and will not be considered contributions.

Explanation of Amendment 2019-01 by Executive Director Kemp.

Comments by Commissioner Laster. None.

Public Comment. Campaign Legal Center letter introduced.

Comments and discussion by Commissioners and staff. Comments by Commissioner Laster.

Discussion and possible action on Amendment 2019-01 of the Constitutional Ethics Rules.

Commissioner Laster moved to adopt proposed amendment 2019-01.

Commissioner Johnson seconded.

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

Motion carried.

This amendment modifies the Lobbyist Rules in Rule 5 of the Constitutional Ethics Rules concerning disclosure of source and funds used for communications to influence a vote of the legislature concerning pending legislation.

Explanation of Amendment 2019-02 by Executive Director Kemp.

Comments by Commissioner Long. None.

Public comment.

Rep. Melodye Blancett: She, as a legislator and a private citizen, has become aware of the abundance of indirect lobbying in advocacy campaigns that are generally funded by dark money. She contends that private citizens, and even herself as a legislator, cannot find out who is funding such advocacy, and private citizens should be able to identify whose voice is behind these communications. She believes this proposal will enable citizens to see who is behind a message, and discover the objective for why significant dollars were spent on the advocacy communication to influence private citizens. She state that she brought this to the Commission because she felt like, as a citizen, she was being barraged by dark campaigns and blind advocacy campaigns without a way to find out who was behind them. She concluded by stating that her objective was not to stifle free-speech, but to protect every day citizens from being unduly influenced by people who pour their money into the system and hide behind a veil.

Rooney Virgin, OSSBA: She explained that she initially had concerns about how to comply with version 1 of the proposed rule and brought her concerns to Director Kemp. Ms. Virgin was initially concerned about version 1 of the proposed rule amendment because her organization advocates primarily through weekly updates, call to action alerts to support or oppose legislation, and social media. However, she supports version 2 of the rule because it includes "solicitation"; OSSBA collects membership dues, but it does not solicit money for indirect lobbying to advocate for or against a bill. She also states that her organization would not mind adding "lobbyist communication" to their communications because they already include their organization's logo, and they want their membership to know that these communications are coming from them.

Gary Kilpatrick, Retiree: Mr. Kilpatrick commented that he regularly analyzes bills and writes emails and letters to editors of local papers with alerts to citizens about a bill, analyzations of bills, and recommendations on how to vote and to contact legislators. He believes his activities that encourage citizens to get involved in politics are within his Constitutional rights and should not be regulated. He explained that the proposed amendment would stifle his efforts to advise the citizens of Bartlesville because his activities would easily exceed the \$500 threshold dollar amount laid out in the proposed rule. He is also concerned about the proposed amendment's effect on churches' abilities to know that they need to file reports if they are engaged in advocacy and exceed the \$500 threshold, which can easily occur. He concludes by stating that the Commission should not look to what other states are doing and instead do the right thing; he believes the Commission has cast the net too far on this proposed rule amendment.

Don Spencer, OK2A: Mr. Spencer, as an activist, believes the proposed rule amendment would be devastating to free speech and an indirect assault on the 2nd amendment. Their organization receives membership dues and uses those dues to get back their rights that should not have been taken away. He is sympathetic to the Representatives concerns about media intrusion, but suggests that it will be there regardless. He opposes the proposed rule and requests that it not go into effect because it already has been and would continue to be harmful to freedom of speech.

Becky Fleming, Citizen: Ms. Fleming commented in support of Rep. Blancett and the proposed rule amendment because she believes anyone should be able to say anything they want, but citizens should know who is saying it. She contends that those who are willing to support an issue with money, time, and advertisement have the responsibility to put their name on it, and the people contacted should know who you are and why you support it. She concluded by stating that there can never be enough transparency.

Amy Anderson, ALEC Action: She works with a 501(c)(3) that is a membership organization for state legislators that discuss issues of public importance and develop policy recommendations. She provided reference to other states that have tried to implement "Indirect lobbying" laws that she believes violates the 1st amendment and are currently undergoing litigation. She contends that the definitions in the proposed rule amendment are vague. She concludes by conveying her understanding of the intent behind the proposed rule amendment; however, she opposes the proposed rule amendment as written because it does not preserve the rights in the 1st amendment.

Trent England, OCPA: Mr. England provided notice that 2,332 Oklahomans signed a petition to oppose this proposed rule amendment. He conveyed his appreciation for the Commissions attempt to redraft the rule after the comments provided to them, but he still believes this rule will treat the Federalist papers like a pack of cigarettes that need a warning label. He believes indirect lobbying is not lobbying and is not campaigning for a candidate. He disagrees with the jurisdiction to adopt this proposed rule amendment because of the constitutional provisions that created the Ethics Commission, which charges the Commission with policing the ethics of government officials and government employees, not private citizens. Mr. England contends that if the legislators were concerned about this issue, they would be proposing a similar regulation. He is also concerned that the proposed rule amendment would capture single interest groups who are smaller and pop up organically during legislative session to take action on one issue. He concludes by discussing his concern about the vagueness of the proposed amendment that may cause constitutionality issues, the practicality of providing disclosure online, and the drafters of the proposed rule amendment.

Jonathan Small, President OCPA: He believes transparency is for the government and privacy is for the people. Referencing two Supreme Court cases where he found that the state tried to compel the identification of supporters of organizations by saying it had an important, specific interest to do so, Mr. Small expressed his concern about the majority in government using its power against minorities. He further expressed concern over the difficulties the rule proposal would provide for grassroots lobbying and community organizations to do things like advance criminal justice reforms, or as his family did personally, oppose anti-homeschooling legislation. He suggests that the Commission has more important things to deal with, for instance, its budget; he then tied the Commission's budget issues with his apprehensions about the Commission possibly engaging in discretionary enforcement, which he believes is concerning for minorities. He concludes by stating that the legislators that passed the Jim Crow Laws in Oklahoma on December 18, 1907 would appreciate this proposed rule because it would have made it difficult for the NAACP members in Oklahoma and others who tried to represent against it from doing so.

Connie Grimm, Citizen: She opposes the proposed rule amendment, suggesting that if you give the government an inch, it will take a mile. She proposes what she believes is a simple solution to dark money groups and advertisements: people should do their research before they vote.

Rhonda Smith, Grassroots Activist: She explained that she has been an active lobbyist for about 10 years, and opposes the proposed rule amendment because she believes it would greatly affect their members and their activities by requiring them to report. She is not compensated for her activism and regularly engages in activist activities, suggesting that the proposed rule amendment would negatively affect her activities. She believes the proposed rule amendment would do more harm than good and is an overreach by the Commission because it violates the 1st amendment rights of citizens to petition the government and the 4th amendment protection against the unreasonable search and seizure of private information. She continues by stating that citizens have a right to address proposed legislation to elected officials, fellow constituents, and the state population at large, concluding that citizens need to remain engaged and influence the government or else the government becomes ineffective. Consequently, she opposes the rule amendment because it would effectively silence Oklahomans.

Chris Moe, Activist: He is an activist for Green the Vote, is on the board for Oklahomans for Health, and the Oklahoma Trade Association. He suggests that if the proposed rule takes effect, it would stifle political movements, and it would have prevented the passage of SQ 788 if were in place at the time. He concludes by stating that if the rule is passed, he will be the first in line to sue the Commission.

David, Mental Health Patients: He spoke on behalf of mental health, commenting that those struggling with mental illness are already scared to petition their government and would be equally concerned about not being sophisticated enough to abide by the Commission's rules. He explained that the \$500 easy to exceed by giving an example of how he regularly advocates at the capitol and brings charter busses full of those struggling with mental illness along with him. He agrees with Rep. Blancett that dark money an issue, but believes the issue only exists out of state. He opposes the proposed rule amendment because he believes it oppresses Oklahomans more than it protects them from dark money groups.

Bryce Smith, Activist: He operates a single member LLC which operates subsidiaries in the cannabis industry and was involved with activism regarding State Question 788. He believes the statement "pay any applicable fees" on page 7, line 6 of the proposed rule amendment is merely a measure to create an additional, potentially unnecessary stream of revenue for the government. He further expresses his concern with the use of the disclosure on social media because he believes it is not an issue of people providing the disclosures, but citizens' willingness and ability to access that information on social media platforms. He concludes by stating that the rule proposal will not create more transparency due to individuals' technological ineptness.

Pamela Street, Activist: She is a retired nurse, an activist for patients' rights, and was an activist in the 788 movement. She commented that she does not understand how the Commission defines ethics because she believes it is about equality and compassion, not money in elections.

Campaign Legal Center, Letter, 1/10/2019 letter. Campaign Legal Center supports the Commission's efforts and recommends the Commission define the time period in Rule 5.19 to clarify the scope of 2019-02's recommendation.

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Comments and discussion by Commissioners and staff. None.

Discussion and possible action on Amendment 2019-02 of the Constitutional Ethics Rules.

No action taken.

This amendment modifies the Campaign Finance Rules in Rule 2 of the Constitutional Ethics Rules involving candidate committee to candidate committee contributions.

Explanation of Amendment 2019-04 by Executive Director Kemp.

Comments by Commissioner Laster. None.

Public Comment. Campaign legal Center Letter.

Comments and discussion by Commissioners and staff. None.

Discussion and possible action on Amendment 2019-04 of the Constitutional Ethics Rules.

Commissioner Laster moved to adopt Amendment 2 to 2019-04.

Commissioner Hawkins seconded.

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

Motion carried.

Commissioner Laster moved to adopt Amendment 2019-04 as amended.

Commissioner Johnson seconded.

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

Motion carried.

Consideration, discussion and possible final action on the

No action taken.

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Consideration, discussion, and possible action on minutes for the regular meeting, public hearing, and executive session held December 14, 2018.

Commissioner Stocker moved to approve the minutes for the regular meeting, public hearing, and executive session held December 14, 2018.

Commissioner Hawkins seconded.

Roll was called and the vote was as follows: Stocker - yes, Hawkins - yes, Long - yes, Laster - yes, Johnson - abstain.

Motion carried.

Executive Director's Report.

Report was provided by Executive Director Kemp on agency expenditures for the months of December 2018, lobbyist and liaison registration, political action committee registration, education programs, and compliance.

Consideration, discussion and possible action on Closed/Executive session.

Commissioner Hawkins moved that pursuant to counsel's advice as set forth in the agenda, the Commission go into executive session in the Commission offices in Room G-27 to discuss the items listed in agenda item 13c.

Commissioner Stocker seconded.

Discussion or comments by commissioners. None.

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

Motion was carried to go into Executive/Closed session at 11:46 a.m.

Executive session was held in the conference room located within the Ethics Commission office on the ground floor of the Capitol, Rm. G-27.

Possible Action to return to Open Session.

Commissioner Stocker moved to reconvene in Open Session at 12:11 p.m.

Commissioner Laster seconded.

Discussion or comments by Commissioners. None.

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

Motion carried.

Consideration, discussion and possible action on items considered in executive session.

Commissioner Laster moved to approved the proposed settlement agreement to resolve Case No. 2017-10.

Commissioner Hawkins seconded.

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

Motion carried.

Commissioner Laster moved to approve a proposed settlement agreement in Case No. 2018-19.

Commissioner Stocker seconded.

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

Motion carried.

New Business.

None.

Adjournment.

Commissioner Laster moved to adjourn.


Commissioner Stocker seconded.

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

Motion carried.

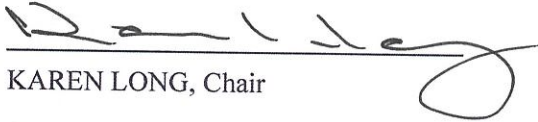
Meeting ended at 12:14 p.m.

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ASHLEY KEMP, Executive Director

Approved on Behalf of the Commission:



KAREN LONG, Chair