

**OREGON GOVERNMENT ETHICS COMMISSION
MEETING AGENDA**

March 7, 2019
9:00 a.m. – 2:00 p.m.

2nd Floor Conference Room
3218 Pringle Rd SE, Suite 220, Salem, OR

Note: The OGEC may take action on any agenda items listed below or related thereto and will engage in a working lunch.

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DEFAULT FINAL ORDERS

None.

REPORTS OF INVESTIGATIONS

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ADVISORY OPINIONS

None.

CORRESPONDENCE RECEIVED/RESPONSES

Staff Opinions (non-action, informational only items)

None.

Staff Advice (non-action, informational only items)

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Other Correspondence (non-action, informational only items)

None.

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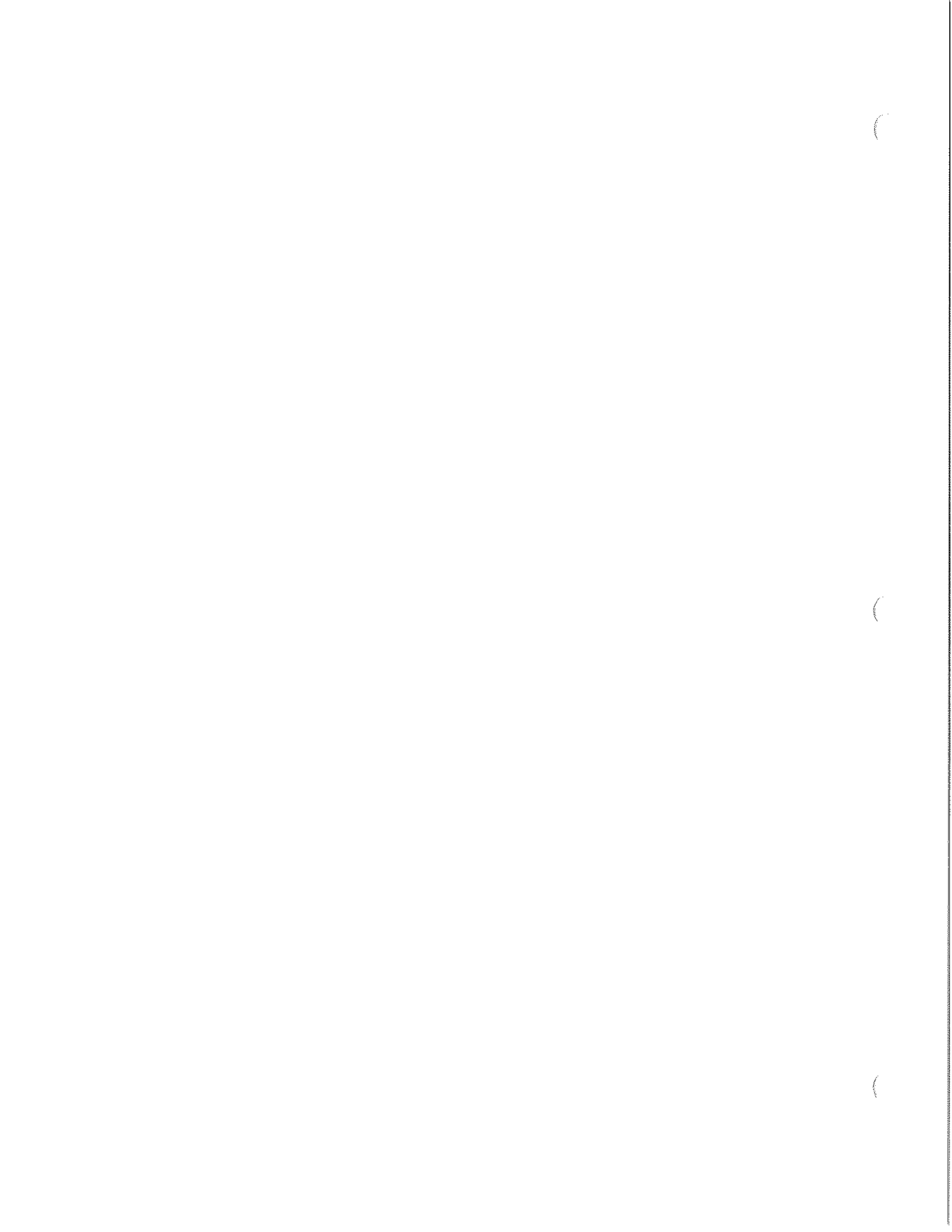
EXECUTIVE SESSION

To consider Preliminary Reviews pursuant to ORS 244.260(4)(d), and ORS 192.685(1).

ADJOURNMENT

NOTE:

THE NEXT MEETING DATE OF THE OREGON GOVERNMENT ETHICS COMMISSION IS SCHEDULED FOR **FRIDAY, APRIL 19, 2019 AT 9:00 A.M.** IN THE 2nd FLOOR CONFERENCE ROOM OF THE MORROW CRANE BUILDING AT 3218 PRINGLE RD SE, #220, SALEM, OREGON.



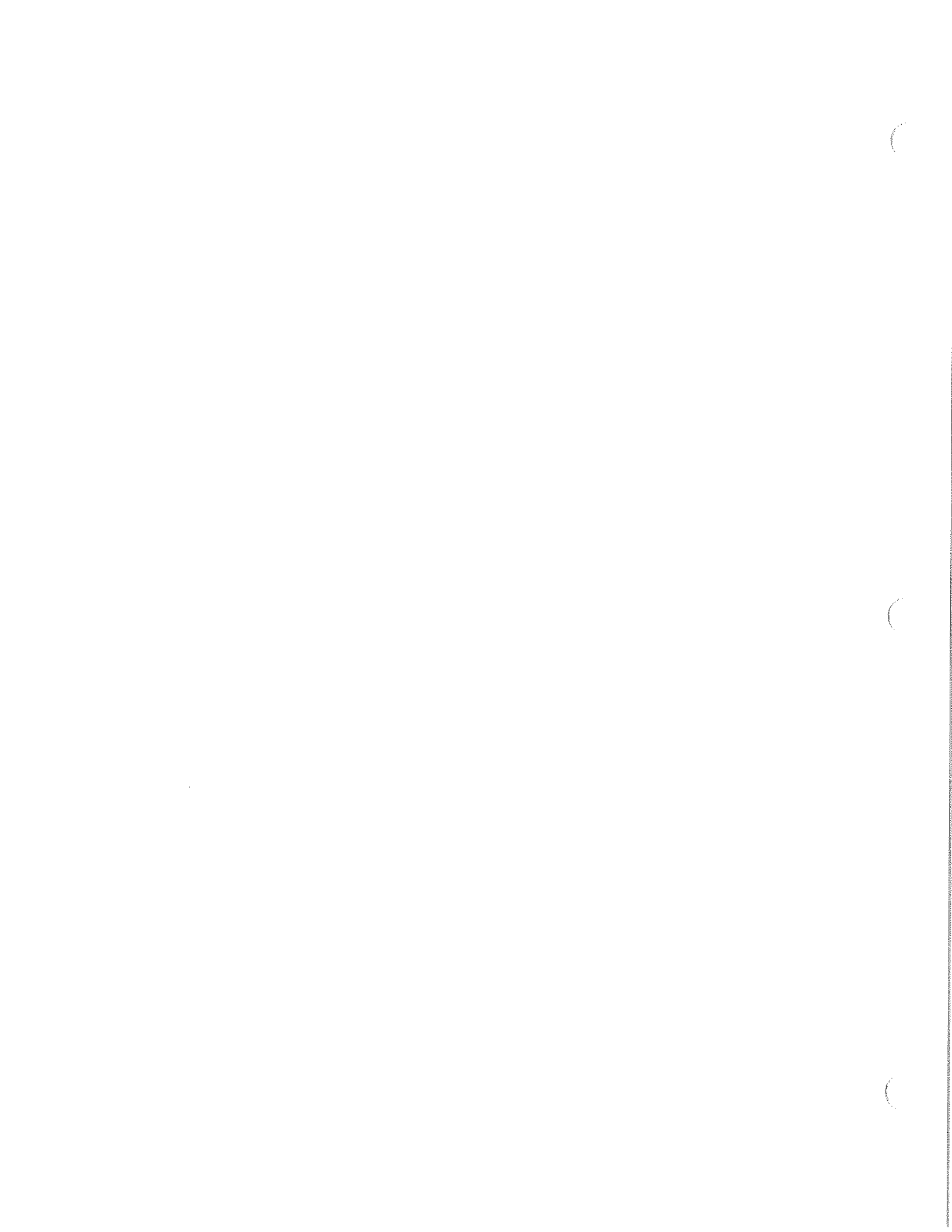
**GOVERNMENT ETHICS COMMISSION
MEETING AGENDA ADDENDUM**

March 7, 2019
9:00 a.m.

2nd Floor Conference Room
Morrow Crane Building
3218 Pringle Rd. SE, #220, Salem, OR 97302

STIPULATED FINAL ORDERS

- 20-A. **No. 15-146XDT**, Steve Holm
No. 15-152XDT, Steve Holm
No. 15-162XDT, Steve Holm
Former Board Member, Lakeside Fire District [9] 80-1
- 20-B. **No. 15-280EDT**, Steve Holm
Former Board Member, Lakeside Fire District [9] 80-7



OREGON GOVERNMENT ETHICS COMMISSION
MEETING MINUTES
January 25, 2019
9:00 a.m.

(File 1)

Chair Richard Burke called the meeting to order at 9:01 a.m. The meeting was held in the 2nd Floor Conference Room of the Morrow Crane Building at 3218 Pringle Rd SE Salem, Oregon. Other Commissioners present were Charles Starr, Daniel Mason, Nathan Sosa, Sean O'Day, Alison Kean, Karly Edwards, Kamala Shugar, and David Fiskum joined by telephone. Staff present were OGEC Counsel Amy Alpaugh, Executive Director Ron Bersin, Program Manager Virginia Lutz, Compliance and Education Coordinator Diane Gould, Investigator Susan Myers, Investigator Hayley Weedn, Trainer Tammy Hedrick, Trainer Monica Walker, and Administrative Specialist Kathy Baier.

AGENDA ITEM 1, Comments from the Chair. Burke welcomes all.

AGENDA ITEM 2, Approval of minutes of the December 14, 2018 Commission meeting. Starr called for approval of the minutes of the December 14, 2018 Commission meeting. Minutes were approved without correction.

CONSENT CALENDAR

Shugar moved for the approval of the Consent Calendar items 3 – 5 and the recommendation on each as follows:

Lobbyist Penalty Correspondence

AGENDA ITEM 3, Lisa Arkin , 2018 Q3, Letter of Education

Lobbyist Client Penalty Correspondence

AGENDA ITEM 4, Forward Edge Initiative, 2016 Q1, Letter of Education

Statement of Economic Interest Penalty Correspondence

AGENDA ITEM 5, Robert Mushen, 2017 SEI, Letter of Education

Group vote was taken as follows: Fiskum, aye; Mason, aye; O'Day, aye; Sosa, aye; Shugar, aye; Starr, aye; Kean, aye; Edwards, aye; Burke, aye. Motion passed unanimously.

End of Consent Calendar

THESE MINUTES CONTAIN MATERIALS WHICH PARAPHRASE AND/OR SUMMARIZE STATEMENTS MADE DURING THIS MEETING. ONLY TEXT ENCLOSED IN QUOTATION MARKS REPORT A SPEAKER'S EXACT WORDS. FOR COMPLETE CONTENTS OF THE PROCEEDINGS, PLEASE REFER TO THE AUDIO RECORDINGS AT <http://www.oregon.gov/OGEC/Pages/comissionmeet.aspx>.

STIPULATED FINAL ORDERS

AGENDA ITEM 6, 16-112XMT, Cary Clarke. Councilor, City of Sumpter. Myers summarized the case. Clarke did not address the Commission. The Commission generally discussed the matter. Shugar moved that the Commission approve the proposed stipulated final order as the final order in this matter and that the chairperson be authorized to sign it as such. Roll call vote was taken as follows: Fiskum, aye; Mason, aye; O'Day, aye; Sosa, aye; Shugar, aye; Starr, aye; Kean, aye; Edwards, aye; Burke, aye. Motion passed unanimously.

AGENDA ITEM 7, 16-133EMS, Patrick Christopher Perry. Wheeler County Judge and chairperson of the Wheeler County Court. Myers summarized the case. Perry did not address the Commission. The Commission generally discussed the matter. Starr moved that the Commission approve the proposed stipulated final order as the final order in this matter and that the chairperson be authorized to sign it as such. Roll call vote was taken as follows: Fiskum, aye; Mason, nay; O'Day, nay; Sosa, aye; Shugar, aye; Starr, aye; Kean, aye; Edwards, aye; Burke, nay. Motion passed 6 - 3.

AGENDA ITEM 8, 18-133XHW, Medessa Cheney

AGENDA ITEM 9, 18-134XDG, Steve Dyer

AGENDA ITEM 10, 18-135XDG, Lauren Rook

AGENDA ITEM 11, 18-137XDG, Dennis Terzian

AGENDA ITEM 12, 18-139XDG, Dorine Nafziger

Portland Village School Board of Directors. Gould summarized the cases. Respondents did not address the Commission. No discussion from the Commission.

Item 8, Sosa moved that the Commission approve the proposed stipulated final order as the final order in this matter and that the chairperson be authorized to sign it as such. Roll call vote was taken as follows: Fiskum, aye; Mason, aye; O'Day, aye; Sosa, aye; Shugar, aye; Starr, aye; Kean, aye; Edwards, aye; Burke, aye. Motion passed unanimously.

Item 9, Sosa moved that the Commission approve the proposed stipulated final order as the final order in this matter and that the chairperson be authorized to sign it as such. Roll call vote was taken as follows: Fiskum, aye; Mason, aye; O'Day, aye; Sosa, aye; Shugar, aye; Starr, aye; Kean, aye; Edwards, aye; Burke, aye. Motion passed unanimously.

Item 10, Sosa moved that the Commission approve the proposed stipulated final order as the final order in this matter and that the chairperson be authorized to sign it as such. Roll call vote was taken as follows: Fiskum, aye; Mason, aye; O'Day, aye; Sosa, aye; Shugar, aye; Starr, aye; Kean, aye; Edwards, aye; Burke, aye. Motion passed unanimously.

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Item 11, Sosa moved that the Commission approve the proposed stipulated final order as the final order in this matter and that the chairperson be authorized to sign it as such. Roll call vote was taken as follows: Fiskum, aye; Mason, aye; O'Day, aye; Sosa, aye; Shugar, aye; Starr, aye; Kean, aye; Edwards, aye; Burke, aye. Motion passed unanimously.

Item 12, Sosa moved that the Commission approve the proposed stipulated final order as the final order in this matter and that the chairperson be authorized to sign it as such. Roll call vote was taken as follows: Fiskum, aye; Mason, aye; O'Day, aye; Sosa, aye; Shugar, aye; Starr, aye; Kean, aye; Edwards, aye; Burke, aye. Motion passed unanimously.

AGENDA ITEM 13, 18-239XDG, Russ Axelrod, Mayor
AGENDA ITEM 14, 18-240XDG, Brenda Perry, Councilor
AGENDA ITEM 15, 18-241XDG, Bob Martin, Councilor
City of West Linn. Weedn summarized the cases. Respondents did not address the Commission. The Commission generally discussed the cases. O'Day disclosed exparte communication with Axelrod.

Item 13, Sosa moved that the Commission approve the proposed stipulated final order as the final order in this matter and that the chairperson be authorized to sign it as such. Roll call vote was taken as follows: Fiskum, aye; Mason, aye; O'Day, aye; Sosa, aye; Shugar, aye; Starr, aye; Kean, aye; Edwards, aye; Burke, aye. Motion passed unanimously.

Item 14, Kean moved that the Commission approve the proposed stipulated final order as the final order in this matter and that the chairperson be authorized to sign it as such. Roll call vote was taken as follows: Fiskum, aye; Mason, aye; O'Day, aye; Sosa, aye; Shugar, aye; Starr, aye; Kean, aye; Edwards, aye; Burke, aye. Motion passed unanimously.

Item 15, Kean moved that the Commission approve the proposed stipulated final order as the final order in this matter and that the chairperson be authorized to sign it as such. Roll call vote was taken as follows: Fiskum, aye; Mason, aye; O'Day, aye; Sosa, aye; Shugar, aye; Starr, aye; Kean, aye; Edwards, aye; Burke, aye. Motion passed unanimously.

DEFAULT FINAL ORDERS

None.

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REPORTS OF INVESTIGATIONS

AGENDA ITEM 16, 18-141XDG, Ann Marie Vitti

AGENDA ITEM 17, 18-142XDG, Ellen Harris

Portland Village School Board of Directors.

Gould summarized the cases. Respondents did not address the Commission. The Commission did not discuss the matter.

Item 16, Sosa moved that the Commission find that the information before the Commission is insufficient to infer a violation of ORS Chapter 244 or warrant further investigation and that this complaint be dismissed. Roll call vote was taken as follows: Fiskum, aye; Mason, aye; O'Day, aye; Sosa, aye; Shugar, aye; Starr, aye; Kean, aye; Edwards, aye; Burke, aye. Motion passed unanimously.

Item 17, Sosa moved that the Commission find that the information before the Commission is insufficient to infer a violation of ORS Chapter 244 or warrant further investigation and that this complaint be dismissed. Roll call vote was taken as follows: Fiskum, aye; Mason, aye; O'Day, aye; Sosa, aye; Shugar, aye; Starr, aye; Kean, aye; Edwards, aye; Burke, aye. Motion passed unanimously.

AGENDA ITEM 18, 18-146XMT, Dick Anderson, Councilor

AGENDA ITEM 19, 18-147XMT, Don Williams, Mayor, not present, not represented

AGENDA ITEM 20, 18-148XMT, Susan Wahlke, Councilor

AGENDA ITEM 21, 18-149XMT, Judy Casper, Councilor

AGENDA ITEM 22, 18-150XMT, Diana Hinton, Councilor

AGENDA ITEM 23, 18-151XMT, Riley Hoaglund, Councilor

City of Lincoln City. Gould summarized the cases. Counsel Andrea Coit addressed the Commission on behalf of all the present city councilors. The Commission and Alpaugh generally discussed the matters. Anderson addressed the Commission. O'Day disclosed a past potential conflict of interest.

Item 18, O'Day moved that the Commission find that the information before the Commission is insufficient to infer a violation of ORS Chapter 244 or warrant further investigation and that this complaint be dismissed. The Commission discussed the matter. Roll call vote was taken as follows: Fiskum, aye; Mason, aye; O'Day, aye; Sosa, nay; Shugar, aye; Starr, aye; Kean, aye; Edwards, nay; Burke, nay. Motion passed 6 – 3.

Item 19, O'Day moved that the Commission find that the information before the Commission is insufficient to infer a violation of ORS Chapter 244 or warrant further investigation and that this complaint be dismissed. Roll call vote was taken as follows: Fiskum, aye; Mason, aye; O'Day, aye; Sosa, nay; Shugar, aye; Starr, aye; Kean, aye; Edwards, absent; Burke, nay. Motion passed 6 – 2.

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Item 20, O'Day moved that the Commission find that the information before the Commission is insufficient to infer a violation of ORS Chapter 244 or warrant further investigation and that this complaint be dismissed. Roll call vote was taken as follows: Fiskum, aye; Mason, aye; O'Day, aye; Sosa, nay; Shugar, aye; Starr, aye; Kean, aye; Edwards, absent; Burke, nay. Motion passed 6 – 2.

Item 21, O'Day moved that the Commission find that the information before the Commission is insufficient to infer a violation of ORS Chapter 244 or warrant further investigation and that this complaint be dismissed. Roll call vote was taken as follows: Fiskum, aye; Mason, aye; O'Day, aye; Sosa, nay; Shugar, aye; Starr, aye; Kean, aye; Edwards, absent; Burke, nay. Motion passed 6 – 2.

Item 22, O'Day moved that the Commission find that the information before the Commission is insufficient to infer a violation of ORS Chapter 244 or warrant further investigation and that this complaint be dismissed. Roll call vote was taken as follows: Fiskum, aye; Mason, aye; O'Day, aye; Sosa, nay; Shugar, aye; Starr, aye; Kean, aye; Edwards, nay; Burke, nay. Motion passed 6 – 3.

Item 23, O'Day moved that the Commission find that the information before the Commission is insufficient to infer a violation of ORS Chapter 244 or warrant further investigation and that this complaint be dismissed. Roll call vote was taken as follows: Fiskum, aye; Mason, aye; O'Day, aye; Sosa, nay; Shugar, aye; Starr, aye; Kean, aye; Edwards, nay; Burke, nay. Motion passed 6 – 3.

The Commission recessed at 11:08 a.m. and resumed in regular session at 11:18 a.m.

(File 2)

AGENDA ITEM 24, 18-155EHW, John Lindsey. County Commissioner, Linn County. Weedn summarized the case. John Lindsey and Counsel Kenny Montoya addressed the Commission. The Commission and Alpaugh discussed the case. Shugar moved that the Commission find that there is sufficient evidence to find 1 violation of ORS Chapter 244.040(1) and 3 violations of ORS 244.120(2) by John Lindsey, if this evidence is not rebutted by contrary evidence, and that this public official be offered a contested case proceeding. The Commission continued discussion. Kean suggested voting on 244.040(1) separately, and the Commission continued discussion.

Shugar amended the motion to move that the Commission find that there is sufficient evidence to find 1 violation of ORS 244.040(1) by John Lindsey, if this evidence is not rebutted by contrary evidence, and that this public official be offered a contested case proceeding. Roll call vote was taken as follows: Fiskum, nay; Mason, nay; O'Day, nay; Sosa, nay; Shugar, aye; Starr, nay; Kean, nay; Edwards, aye; Burke, nay. Motion failed 7 to 2.

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Sosa moved that the Commission find that the information before the Commission is insufficient to infer a violation of ORS Chapter 244.120(2) on June 4, 2017 or warrant further investigation and that this element of the complaint be dismissed. Roll call vote was taken as follows: Fiskum, aye; Mason, aye; O'Day, nay; Sosa, aye; Shugar, nay; Starr, aye; Kean, aye; Edwards, nay; Burke, aye. Motion passed 6 – 3.

Sosa moved that the Commission find that there is sufficient evidence to find a violation of ORS Chapter 244.120(2) on June 5 and June 27, 2017 by John Lindsey, if this evidence is not rebutted by contrary evidence, and that this public official be offered a contested case proceeding. Roll call vote was taken as follows: Fiskum, aye; Mason, aye; O'Day, aye; Sosa, aye; Shugar, aye; Starr, aye; Kean, aye; Edwards, aye; Burke, aye. Motion passed unanimously.

The Commission recessed for a working lunch at 1:10 p.m., and convened into executive session at 1:20 p.m. to conduct Executive Director performance review pursuant to ORS 192.660(2)(i), and to consult with legal counsel regarding current litigation or litigation likely to be filed pursuant to ORS 192.660(2)(h).

EXECUTIVE SESSION CONSENT CALENDAR

Reports of Preliminary Review

(All items removed from consent calendar for discussion.)

End of Executive Session Consent Calendar

OTHER ITEMS

Reports of Preliminary Review
(removed from consent calendar)

None.

Own Motion Preliminary Reviews

None.

Other Items

(File 3)

AGENDA ITEM 30, Executive Director Performance Review follow-up. No additional comments.

AGENDA ITEM 31, Review of Pending Litigation. Alpaugh summarized pending litigation.

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The Commission reconvened into open session at 1:30 p.m.

ADVISORY OPINIONS

None.

CORRESPONDENCE RECEIVED/RESPONSES

Staff Opinions

(non-action, informational only items)

None.

Staff Advice

(non-action, informational only items)

(File 4)

The Commission reviewed the following items without comment:

AGENDA ITEM 25, 18-2451, Stephen Dow Beckham re conflict of interest between service as a member of the State Advisory Committee on Historic Preservation and former employment as a consultant under contract for the Confederated Tribes of Coos, Lower Umpqua and Siuslaw.

AGENDA ITEM 26, 18-2511, Tammy Dennee, Oregon Dairy Farmers Association, re food and beverage provided at educational farm tour for legislative officials and staff.

OTHER CORRESPONDENCE

None.

MISCELLANEOUS ITEMS

AGENDA ITEM 27, Trainers' Report. Hedrick and Walker summarized past and future training activities and the upcoming SEI filing season training. Gould summarized a meeting with the Massachusetts Ethics Commission.

AGENDA ITEM 28, Executive Director's Report. Bersin discussed the following:

- 2017-2019 biennial budget: Bersin reviewed the status of the 2017-2019 budget and advised that the ending balance would be used to reduce 2019-2021 assessments.
- 2019-2021. Governor's budget complete. Budget hearings upcoming in February.
- 2019 Legislative Bills: HB 2096 & 2097 hearings to begin with House Rules.
- SEI filings and Q4 Expenditure Reports: reviewed status of non-filers.
- Met with DAS IT regarding service needs and will replace two office computers.

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- Met with Bill Cross, Capitol Club re legislative concepts.
- Cylvia Hayes re case status and possible settlement document at next meeting.

AGENDA ITEM 29, Review of the 2019-2021 Governor's Budget.

Chair Burke adjourned the meeting at 1:56 p.m.

The next scheduled meeting date of the Oregon Government Ethics Commission is set for Thursday, March 7, 2019, at 9:00 a.m. The meeting will be held in the 2nd Floor Conference Room of the Morrow Crane Building at 3218 Pringle Rd SE, in Salem, Oregon.

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THESE MINUTES CONTAIN MATERIALS WHICH PARAPHRASE AND/OR SUMMARIZE STATEMENTS MADE DURING THIS MEETING. ONLY TEXT ENCLOSED IN QUOTATION MARKS REPORT A SPEAKER'S EXACT WORDS. FOR COMPLETE CONTENTS OF THE PROCEEDINGS, PLEASE REFER TO THE AUDIO RECORDINGS AT <http://www.oregon.gov/OGEC/Pages/comissionmeet.aspx>.



Oregon

Kate Brown, Governor

Government Ethics Commission

3218 Pringle Rd SE, Ste 220

Salem, OR 97302-1544

Telephone: 503-378-5105

Fax: 503-373-1456

Email: ogec.mail@oregon.gov

Website: www.oregon.gov/ogec

February 4, 2019

Hannah Taube
9209 SE Pine St.
Portland OR 97216

Dear Ms. Taube:

The written explanation of why your Q4 2018 Lobbyist expenditure report was filed late has been received and will be submitted to the Oregon Government Ethics Commission (Commission) for consideration at a regular meeting. The next meeting will be held on Thursday, March 7, 2019, at 9:00 a.m. The Commission will consider the matter at that time and then waive all, some, or no part of the penalty based on the explanation. Commission meetings are open to the public and you are welcome to attend. The meeting will be held in the Morrow Crane Building at 3218 Pringle Road, SE, Room 220, Salem, Oregon 97302.

The due date for the \$140 penalty will be extended to coincide with the March 7th meeting date. You will be notified of the outcome and will be given additional instructions regarding the penalty, if any, in writing after the meeting. You may feel free to contact this office if you have any questions concerning this matter.

Sincerely,

Commission Staff



Lobbyist Activity

Q4 2018

Lobbyist Code: 1367
User Name: Hannah Taube
Email: hannahtaube@gmail.com

Q4 2018 Filing: 1/29/2019
Q4 2018 Expended: \$0.00
Q4 2018 Penalty: \$140.00

Hannah Taube
9209 SE Pine St, Portland OR 97216
Portland, OR 97216

Activity Log - Q4 2018 to Date

10/01/18 11:45:57.090 - User Failed to Authenticate -
10/01/18 11:46:06.027 - User Successfully Authenticated -
10/01/18 01:38:34.400 - User Successfully Authenticated -
10/01/18 01:39:36.510 - Lobbyist Report Submitted - Lobbyist Report Submitted for Q3 2018
01/02/19 01:24:21.137 - User Failed to Authenticate -
01/02/19 01:24:26.917 - User Failed to Authenticate -
01/16/19 01:30:07.527 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/17/19 01:30:07.810 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/18/19 01:30:06.890 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/19/19 01:30:07.593 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/20/19 01:30:06.363 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/21/19 01:30:07.520 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/22/19 01:30:06.297 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/23/19 01:30:06.237 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/24/19 01:30:06.530 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/25/19 01:30:07.203 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/26/19 01:30:07.253 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/27/19 01:30:06.460 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/28/19 01:30:07.633 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/29/19 01:30:06.250 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/29/19 12:45:25.027 - User Failed to Authenticate -
01/29/19 12:48:27.450 - Admin User Reset Initiated - An admin user reset was initiated.
01/29/19 12:48:43.997 - Admin User Password Reset Completed - A user reset their password using an admin reset.
01/29/19 12:48:58.013 - User Successfully Authenticated -
01/29/19 12:50:18.200 - Lobbyist Report Submitted - Lobbyist Report Submitted for Q4 2018
01/29/19 12:51:35.420 - User Profile Updated - The user's main profile was updated.
01/29/19 12:51:35.583 - User Profile Updated - User profile updated for Hannah Taube

PAST VIOLATIONS: NONE

RECOMMENDATION:

Letter of Ed
ED

Oregon Government Ethics Commission
3218 Pringle Rd. SE, #220
Salem, OR 97302-1544

RECEIVED
FEB 01 2019
OREGON GOVERNMENT
ETHICS COMMISSION

Dear Oregon Government Ethics Commission,

I am writing to ask for leniency on a past due lobbyist registration. I was a registered lobbyist while working for the Oregon Working Families Party as the Interim State Director. In December 2018, for mental health reasons, I left the staff at Oregon WFP, and shortly thereafter lost access to my email account which was registered with the Oregon Government Ethics Commission. This is why I did not see the notification of daily fees for a late filing which went to that account. As soon as I became aware of them, I called the OGEC office and changed my email on file, and canceled my registered lobbyist status. By that time \$140 of fees had accrued. I am currently unemployed and taking care of my mental health while I look for a new, more sustainable job. Anything the commission can do to reduce or waive the fees related to this oversight would be greatly appreciated.

Thank you,

Hannah Taube
617-721-3361
Hannahtaube@gmail.com

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Oregon

Kate Brown, Governor

Government Ethics Commission

3218 Pringle Rd SE, Ste 220

Salem, OR 97302-1544

Telephone: 503-378-5105

Fax: 503-373-1456

Email: ogec.mail@oregon.gov

Website: www.oregon.gov/ogec

February 6, 2019

LeeAnne Fergason
7411 SE Knight St.
Portland OR 97206

Dear Ms. Fergason:

The written explanation of why your Q4 2017 Lobbyist expenditure report was filed late has been received and will be submitted to the Oregon Government Ethics Commission (Commission) for consideration at a regular meeting. The next meeting will be held on Thursday, March 7, 2019, at 9:00 a.m. The Commission will consider the matter at that time and then waive all, some, or no part of the penalty based on the explanation. Commission meetings are open to the public and you are welcome to attend. The meeting will be held in the Morrow Crane Building at 3218 Pringle Road, SE, Room 220, Salem, Oregon 97302.

The due date for the \$5000 penalty will be extended to coincide with the March 7th meeting date. You will be notified of the outcome and will be given additional instructions regarding the penalty, if any, in writing after the meeting. You may feel free to contact this office if you have any questions concerning this matter.

Sincerely,

Commission Staff



Lobbyist Activity

Q4 2017

Lobbyist Code: 1021
User Name: leeanne@btaoregon.org
Email: leeanne.fergason@gmail.com

Q4 2017 Filing: 2/5/2019
Q4 2017 Expended: \$0.00
Q4 2017 Penalty: \$5,000.00

LeeAnne Ferguson
7411 SE Knight St
Portland, OR 97206

Activity Log - Q4 2017 to Date

10/03/17 10:44:57.653 - User Successfully Authenticated -
10/11/17 09:53:04.007 - User Successfully Authenticated -
10/11/17 09:54:06.823 - Lobbyist Report Submitted - Lobbyist Report Submitted for Q3 2017
01/16/18 02:58:09.713 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/17/18 03:00:31.827 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/18/18 01:30:09.083 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/19/18 01:30:07.967 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/20/18 01:30:08.310 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/21/18 01:30:12.713 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/22/18 01:30:08.353 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/23/18 01:30:10.723 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/24/18 01:30:09.507 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/25/18 01:30:08.880 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/26/18 01:30:08.553 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/27/18 01:30:07.637 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/28/18 01:30:07.733 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/29/18 01:30:08.937 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/30/18 01:30:07.233 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/31/18 01:30:06.703 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/01/18 01:30:11.187 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/02/18 01:30:07.323 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/03/18 01:30:06.337 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/04/18 01:30:06.610 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/05/18 01:30:07.200 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/06/18 01:30:08.153 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/07/18 01:30:06.827 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/08/18 01:30:07.370 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/09/18 01:30:09.033 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/10/18 01:30:13.117 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/11/18 01:30:07.633 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/12/18 01:30:10.743 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/13/18 01:30:06.263 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/14/18 01:30:08.217 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/15/18 01:30:07.257 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/16/18 01:30:09.850 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/17/18 01:30:07.387 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/18/18 01:30:07.877 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/19/18 01:30:06.297 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/20/18 01:30:13.073 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/21/18 01:30:08.227 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/22/18 01:30:08.790 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/23/18 01:30:07.927 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/24/18 01:30:06.553 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/25/18 01:30:18.730 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/26/18 01:30:37.050 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/27/18 01:30:16.407 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/28/18 01:30:07.790 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
03/01/18 01:30:08.817 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
03/02/18 01:30:06.927 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
03/03/18 01:30:07.373 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
03/04/18 01:30:08.013 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
03/05/18 01:30:08.787 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
03/06/18 01:30:07.783 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
03/07/18 01:30:07.857 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
03/08/18 01:30:06.707 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
03/09/18 01:30:06.073 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4

Lobbyist Activity

Q4 2017

Lobbyist Code: 1021
Lobbyist Name: leeanne@btaoregon.org
Email: leeanne.fergason@gmail.com

LeeAnne Fergason
7411 SE Knight St
Portland, OR 97206

Q4 2017 Filing: 2/5/2019
Q4 2017 Expended: \$0.00
Q4 2017 Penalty: \$5,000.00

05/07/18 01:30:07.640 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/05/19 10:38:36.397 - User Failed to Authenticate -
02/05/19 10:38:42.773 - User Failed to Authenticate -
02/05/19 10:39:15.147 - User Failed to Authenticate -
02/05/19 10:39:22.460 - User Successfully Authenticated -
02/05/19 10:40:41.290 - Lobbyist Report Submitted - Lobbyist Report Submitted for Q4 2017
02/05/19 10:44:49.320 - User Profile Updated - User profile updated for LeeAnne Fergason
02/05/19 10:44:49.400 - User Profile Updated - The user's main profile was updated.

PAST VIOLATIONS: NONE

RECOMMENDATION:

Letter of Ed
(P)

RECEIVED
FEB 06 2019
OREGON GOVERNMENT
ETHICS COMMISSION

LeeAnne Fergason
7411 SE Knight Street
Portland, OR 97206
February 5, 2019

Oregon Government Ethics Commissioners
3218 Pringle Rd SE # 220,
Salem, OR 97302

Dear Oregon Government Ethics Commissioners:

Thank you for your time. I respectfully ask for the \$5,000 fine for late filing be waved due to the circumstances I have listed in this letter.

I received a letter on February 4, 2019 stating that I did not file my final lobbying report in January 2018. First of all, thank you for the notice by mail. My account information was incorrect, so I had not received any email notices. I submitted my final report online today with the assistance of your helpful staff. Before this instance, I did not have a history of late filing.

I ended my employment and position that required occasional lobbying at the Street Trust on November 30, 2017. In December 2017 I started a new position at a new organization. Also in December 2017 my mother-in-law passed away after a long battle with ALS and I spent two weeks in Pennsylvania with my family. At that time, I forgot all about commitment to file the last report in January 2018.

As my final filing shows, I did not have any lobbying hours the last quarter of my work at the Street Trust. My sincerest apologies for not following the protocol. Thank you for the notice and for allowing me to submit this letter and request to wave the fee. I very much appreciate your time in this matter.

Sincerely,



LeeAnne Fergason



Oregon

Kate Brown, Governor

Government Ethics Commission

3218 Pringle Rd SE, Ste 220

Salem, OR 97302-1544

Telephone: 503-378-5105

Fax: 503-373-1456

Email: ogec.mail@oregon.gov

Website: www.oregon.gov/ogec

February 6, 2019

Richard Riggs
2410 Coho Ave NW
Salem OR 97304

Dear Mr. Riggs:

The written explanation of why your Q2 2016 Lobbyist expenditure report was filed late has been received and will be submitted to the Oregon Government Ethics Commission (Commission) for consideration at a regular meeting. The next meeting will be held on Thursday, March 7, 2019, at 9:00 a.m. The Commission will consider the matter at that time and then waive all, some, or no part of the penalty based on the explanation. Commission meetings are open to the public and you are welcome to attend. The meeting will be held in the Morrow Crane Building at 3218 Pringle Road, SE, Room 220, Salem, Oregon 97302.

The due date for the \$5000 penalty will be extended to coincide with the March 7th meeting date. You will be notified of the outcome and will be given additional instructions regarding the penalty, if any, in writing after the meeting. You may feel free to contact this office if you have any questions concerning this matter.

Sincerely,

Commission Staff



Lobbyist Activity

Q2 2016

Lobbyist Code: 182
User Name: richardriggs
Email: Richard.Riggs@state.OR.US

Richard Riggs
2410 Coho Ave NW
Salem, OR 97304

Q2 2016 Filing: 2/6/2019
Q2 2016 Expended: \$0.00
Q2 2016 Penalty: \$5,000.00

Activity Log - Q2 2016 to Date

04/05/16 08:15:38.233 - User Failed to Authenticate -
04/05/16 08:16:41.540 - User Failed to Authenticate -
04/05/16 08:18:42.540 - User Failed to Authenticate -
04/05/16 08:21:12.563 - Admin User Reset Initiated - An admin user reset was initiated.
04/05/16 08:21:41.407 - Admin User Password Reset Completed - A user reset their password using an admin reset.
04/05/16 08:21:49.507 - User Successfully Authenticated -
04/05/16 08:22:36.993 - Lobbyist Report Submitted - Lobbyist Report Submitted
07/16/16 01:30:27.000 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2
07/17/16 01:30:26.553 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2
07/18/16 01:30:24.457 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2
07/19/16 01:30:27.753 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2
07/20/16 01:30:26.273 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2
07/21/16 01:30:31.870 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2
07/22/16 01:30:30.643 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2
07/23/16 01:30:27.797 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2
07/24/16 01:30:49.560 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2
07/25/16 01:30:28.580 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2
07/26/16 01:30:30.100 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q2
08/03/16 01:30:10.687 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2
08/04/16 01:30:12.237 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2
08/05/16 01:30:11.430 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2
08/06/16 01:30:13.877 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2
08/07/16 01:30:15.703 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2
08/08/16 01:30:09.597 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2
08/09/16 01:30:12.983 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2
08/10/16 01:30:13.220 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2
08/11/16 01:30:17.437 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2
08/12/16 01:30:11.967 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2
08/13/16 01:30:11.703 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2
08/14/16 01:30:11.467 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2
08/15/16 01:30:11.730 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2
08/16/16 01:30:12.313 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2
08/17/16 01:30:12.277 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2
08/18/16 01:30:34.117 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2
08/19/16 01:30:12.787 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2
08/20/16 01:30:12.380 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2
08/21/16 01:30:11.910 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2
08/22/16 01:30:13.360 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2
08/23/16 01:30:11.530 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2
08/24/16 01:30:11.377 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2
08/25/16 01:30:11.573 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2
08/26/16 01:30:12.640 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2
08/27/16 01:30:11.203 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2
08/28/16 01:30:11.650 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2
08/29/16 01:30:11.587 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2
08/30/16 01:30:11.733 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2
08/31/16 01:30:13.947 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2
09/01/16 01:30:12.730 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2
09/02/16 01:30:11.113 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2
09/03/16 01:30:11.667 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2
09/04/16 01:30:12.650 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2
09/05/16 01:30:12.057 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2
09/06/16 01:30:12.990 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2
09/07/16 01:30:13.473 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2
09/08/16 01:30:13.357 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2
09/09/16 01:30:12.790 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2

Lobbyist Activity

Q2 2016

Lobbyist Code: 182
User Name: richardriggs
Email: Richard.Riggs@state.OR.US

Richard Riggs
2410 Coho Ave NW
Salem, OR 97304

Q2 2016 Filing: 2/6/2019
Q2 2016 Expended: \$0.00
Q2 2016 Penalty: \$5,000.00

11/07/16 01:30:12.390 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q2
11/08/16 01:30:11.577 - Automated Late Fee Applied - Late fee of amount \$40.00 applied for reporting requirement 2016 Q2
01/30/19 09:52:21.947 - User Profile Updated - User profile updated for Richard Riggs
01/30/19 09:52:22.343 - User Profile Updated - The user's main profile was updated.
01/31/19 10:17:27.583 - User Profile Updated - User profile updated for Richard Riggs
01/31/19 10:17:27.677 - User Profile Updated - The user's main profile was updated.
02/06/19 01:52:05.480 - Lobbyist Report Submitted - Lobbyist Report Submitted for Q2 2016

PAST VIOLATIONS: NONE

RECOMMENDATION:

 Letter of Find

BAIER Kathy * OGEC

From: Richard Riggs <richardriggs@gmail.com>
Sent: Wednesday, February 06, 2019 2:37 PM
To: BAIER Kathy * OGEC
Subject: Q2-2016 filing

Dear Oregon Government Ethics Commission Members,

I am writing to acknowledge my late filing for Q-2, 2016. I learned of this omission on February 5th, 2019 and with Ms. Baier's kind assistance I filed the required report on February 6, 2019. I have engaged in no lobbying efforts since Q2, 2016 and this is my first and only lobbying related misstep.

In 2015 and early 2016 I was DOGAMI's assistant director and legislative coordinator. The agency director required that I register as a lobbyist even though lobbying was a minuscule part of my position's duties and I had neither lobbying related expenses nor ever came close to the 24 hour threshold that would have mandated my registration. I was released from my position on April 5th 2016 during an agency wide reorganization and my lobbying registration was terminated at that time. I have engaged in no lobbying efforts since leaving DOGAMI.

I acknowledge that I had a duty to report my lobbying efforts for the first five days of Q2, 2016 on or before July 15, 2016 and that I did not do so. Unfortunately I let this responsibility slip from my consciousness as I was no longer engaged in lobbying activities upon leaving DOGAMI and because I was fully consumed with seeking gainful employment throughout the remainder of 2016.

Please accept this letter of explanation and admission of wrongdoing as you consider my file and the potential fine you may levy.

Sincerely,

Richard Riggs



Oregon

Kate Brown, Governor

Government Ethics Commission

3218 Pringle Rd SE, Ste 220

Salem, OR 97302-1544

Telephone: 503-378-5105

Fax: 503-373-1456

Email: ogec.mail@oregon.gov

Website: www.oregon.gov/ogec

February 7, 2019

Brett Hamilton
2818 NE US Grant Place
Portland OR 97212

Dear Mr. Hamilton:

The written explanation of why your Q2 2017 Lobbyist expenditure report was filed late has been received and will be submitted to the Oregon Government Ethics Commission (Commission) for consideration at a regular meeting. The next meeting will be held on Thursday, March 7, 2019, at 9:00 a.m. The Commission will consider the matter at that time and then waive all, some, or no part of the penalty based on the explanation. Commission meetings are open to the public and you are welcome to attend. The meeting will be held in the Morrow Crane Building at 3218 Pringle Road, SE, Room 220, Salem, Oregon 97302.

The due date for the \$5000 penalty will be extended to coincide with the March 7th meeting date. You will be notified of the outcome and will be given additional instructions regarding the penalty, if any, in writing after the meeting. You may feel free to contact this office if you have any questions concerning this matter.

Sincerely,

Commission Staff



Lobbyist Activity

Q2 2017

Lobbyist Code: 322
User Name: Brett Hamilton
Email: brettth@familycareinc.org

Brett Hamilton
2818 NE US Grant Place
Portland, OR 97212

Q2 2017 Filing: 2/7/2019
Q2 2017 Expended: \$0.00
Q2 2017 Penalty: \$5,000.00

Activity Log - Q2 2017 to Date

04/05/17 12:36:17.067 - User Successfully Authenticated -
04/05/17 12:37:08.230 - Lobbyist Report Submitted - Lobbyist Report Submitted for Q1 2017
07/16/17 01:30:09.587 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q2
07/17/17 01:30:11.433 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q2
07/18/17 01:30:10.013 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q2
07/19/17 01:30:10.553 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q2
07/20/17 01:30:09.700 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q2
07/21/17 01:30:09.740 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q2
07/22/17 01:30:12.497 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q2
07/23/17 01:30:09.977 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q2
07/24/17 01:30:13.917 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q2
07/25/17 01:30:11.923 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q2
07/26/17 01:30:10.470 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q2
07/27/17 01:30:09.593 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q2
07/28/17 01:30:09.893 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q2
07/29/17 01:30:09.740 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q2
07/30/17 01:30:10.880 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q2
07/31/17 01:30:12.417 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q2
08/01/17 01:30:09.900 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q2
08/02/17 01:30:10.280 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q2
08/03/17 01:30:10.077 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q2
08/04/17 01:30:09.550 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q2
08/05/17 01:30:49.533 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q2
08/06/17 01:30:10.033 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q2
08/07/17 01:30:11.310 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q2
08/08/17 01:30:09.233 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q2
08/09/17 01:30:09.220 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q2
08/10/17 01:30:11.517 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q2
08/11/17 01:30:10.430 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q2
08/12/17 01:30:09.157 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q2
08/13/17 01:30:12.670 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q2
08/14/17 01:30:10.673 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q2
08/15/17 01:30:11.650 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q2
08/16/17 01:30:09.607 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q2
08/17/17 01:30:11.957 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q2
08/18/17 01:30:09.560 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q2
08/19/17 01:30:10.543 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q2
08/20/17 01:30:09.090 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q2
08/21/17 01:30:12.240 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q2
08/22/17 01:30:10.550 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q2
08/23/17 01:30:10.073 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q2
08/24/17 01:30:10.447 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q2
08/25/17 01:30:11.010 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q2
08/26/17 01:30:10.573 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q2
08/27/17 01:30:10.650 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q2
08/28/17 01:30:11.547 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q2
08/29/17 01:30:10.257 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q2
08/30/17 01:30:10.210 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q2
08/31/17 01:30:09.510 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q2
09/01/17 01:30:12.720 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q2
09/02/17 01:30:11.707 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q2
09/03/17 01:30:11.610 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q2
09/04/17 01:30:13.007 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q2
09/05/17 01:30:12.833 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q2
09/06/17 01:30:11.637 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q2
09/07/17 01:30:15.237 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q2

Lobbyist Activity

Q2 2017

Lobbyist Code: 322
Lobbyist Name: Brett Hamilton
Email: brettth@familycareinc.org

Q2 2017 Filing: 2/7/2019

Q2 2017 Expended: \$0.00


Q2 2017 Penalty: \$5,000.00

Brett Hamilton
2818 NE US Grant Place
Portland, OR 97212

- 01/30/19 09:19:12.253 - User Profile Updated - User profile updated for Brett Hamilton
- 01/30/19 09:19:12.263 - User Profile Updated - The user's main profile was updated.
- 02/07/19 08:59:10.963 - Lobbyist Report Submitted - Lobbyist Report Submitted for Q2 2017
- 02/07/19 09:04:24.997 - User Profile Updated - User profile updated for Brett Hamilton
- 02/07/19 09:04:25.200 - User Profile Updated - The user's main profile was updated.

PAST VIOLATIONS: NONE

RECOMMENDATION:

Letter of Ed


BAIER Kathy * OGEC

From: Brett Hamilton <brett.w.hamilton@gmail.com>
Sent: Thursday, February 07, 2019 10:58 AM
To: BAIER Kathy * OGEC
Subject: Hamilton Letter of Explanation

Dear Commissioners:

This letter is in response to Ron Bersin's letter dated January 30, 2019 informing me of the missed filing of my Quarter 2 2017 Lobbyist Expenditure Report. I recognize that the filing of the report is my responsibility and I accept that. I offer the following explanation, which I hope will help explain my oversight.

I officially left my position at FamilyCare on April 28, 2017, midway through Quarter 2 of 2017, and began my new position at Providence Health & Services on May 1, 2017. The Expenditure Reports notifications were being sent to my defunct FamilyCare email address; therefore, I never received the requests to submit the Expenditure Report. I have been at Providence since and have not acted as a lobbyist or performed any activities on behalf of Providence that would qualify as lobbying.

As my record will attest this is my first offense and I have now filed my Quarter 2 2017 Lobbyist Expenditure Report. I take these requirements very seriously and am truly sorry to have missed this one. I ask for your leniency and request a waiver.

Sincerely,

Brett



Oregon

Kate Brown, Governor

Government Ethics Commission

3218 Pringle Rd SE, Ste 220

Salem, OR 97302-1544

Telephone: 503-378-5105

Fax: 503-373-1456

Email: ogec.mail@oregon.gov

Website: www.oregon.gov/ogec

February 11, 2019

Ian Johnson
6710 SE Gladstone
Portland OR 97206

Dear Mr. Johnson:

The written explanation of why your Q4 2017 Lobbyist expenditure report was filed late has been received and will be submitted to the Oregon Government Ethics Commission (Commission) for consideration at a regular meeting. The next meeting will be held on Thursday, March 7, 2019, at 9:00 a.m. The Commission will consider the matter at that time and then waive all, some, or no part of the penalty based on the explanation. Commission meetings are open to the public and you are welcome to attend. The meeting will be held in the Morrow Crane Building at 3218 Pringle Road, SE, Room 220, Salem, Oregon 97302.

The due date for the \$5000 penalty will be extended to coincide with the March 7th meeting date. You will be notified of the outcome and will be given additional instructions regarding the penalty, if any, in writing after the meeting. You may feel free to contact this office if you have any questions concerning this matter.

Sincerely,

Commission Staff



Lobbyist Activity

Q4 2017

Lobbyist Code: 1143
User Name: IanJohnson
Email: ijohnson@workingfamilies.org

Q4 2017 Filing: 2/11/2019
Q4 2017 Expended: \$0.00
Q4 2017 Penalty: \$5,000.00

Ian Johnson
6710 SE Gladstone
Portland, OR 97206

Activity Log - Q4 2017 to Date

10/13/17 09:33:18.430 - User Failed to Authenticate -
10/13/17 09:33:30.263 - User Successfully Authenticated -
10/13/17 09:34:53.903 - Lobbyist Report Submitted - Lobbyist Report Submitted for Q3 2017
01/01/18 01:32:34.363 - Lobbyist/Client Registration Request Expired - The lobbyist/client registration came to end of term and expired.
01/16/18 02:58:09.823 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/17/18 03:00:31.903 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/18/18 01:30:09.663 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/19/18 01:30:08.510 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/20/18 01:30:08.870 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/21/18 01:30:13.023 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/22/18 01:30:09.293 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/23/18 01:30:11.957 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/24/18 01:30:10.223 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/25/18 01:30:09.910 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/26/18 01:30:09.007 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/27/18 01:30:08.073 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/28/18 01:30:08.110 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/29/18 01:30:09.157 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/30/18 01:30:07.637 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q4
01/31/18 01:30:07.047 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/01/18 01:30:11.717 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/02/18 01:30:07.790 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/03/18 01:30:06.570 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/04/18 01:30:06.970 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/05/18 01:30:07.590 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/06/18 01:30:08.467 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/07/18 01:30:07.513 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/08/18 01:30:07.667 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/09/18 01:30:09.970 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/10/18 01:30:14.817 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/11/18 01:30:08.180 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/12/18 01:30:11.650 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/13/18 01:30:06.577 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/14/18 01:30:08.560 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/15/18 01:30:07.817 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/16/18 01:30:10.300 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/17/18 01:30:07.730 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/18/18 01:30:09.080 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/19/18 01:30:06.610 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/20/18 01:30:13.493 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/21/18 01:30:08.850 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/22/18 01:30:09.413 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/23/18 01:30:08.457 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/24/18 01:30:06.913 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/25/18 01:30:18.997 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/26/18 01:30:37.253 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/27/18 01:30:16.563 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/28/18 01:30:08.273 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
03/01/18 01:30:09.377 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
03/02/18 01:30:07.003 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
03/03/18 01:30:07.453 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
03/04/18 01:30:08.277 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
03/05/18 01:30:08.880 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
03/06/18 01:30:08.393 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
03/07/18 01:30:07.937 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4

Lobbyist Activity

Q4 2017

Lobbyist Code: 1143
Lobbyist Name: Ian Johnson
Email: ijohnson@workingfamilies.org

Ian Johnson
6710 SE Gladstone
Portland, OR 97206

Q4 2017 Filing: 2/11/2019
Q4 2017 Expended: \$0.00
Q4 2017 Penalty: \$5,000.00

05/05/18 01:30:05.630 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
05/06/18 01:30:08.783 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
05/07/18 01:30:07.890 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q4
02/11/19 09:48:53.633 - User Profile Updated - User profile updated for Ian Johnson
02/11/19 09:48:53.883 - User Profile Updated - The user's main profile was updated.
02/11/19 09:53:56.323 - Lobbyist Report Submitted - Lobbyist Report Submitted for Q4 2017

PAST VIOLATIONS: NONE

RECOMMENDATION:

Letter of Ed
(in)

BAIER Kathy * OGEC

From: Ian Johnson <plumjohnson@gmail.com>
Sent: Monday, February 11, 2019 12:13 PM
To: BAIER Kathy * OGEC
Subject: Q4 2017 Expenditure Report

Hi Kathy. this is Ian Johnson - we spoke on the phone earlier today. Below is my explanation to the commissioners. Thank you for taking the time to get in touch with me and explain matters. I hope you have a great day.

Ian

Dear Commissioners,

I apologize for being late in filing my Q4 2017 report. I did not lobby at all in the fourth quarter of 2017. At that time, I changed employment and moved to a new house. I did not understand I needed to file a Q4 report and did not receive letters because of my new address. It was a hectic period and I am sorry this reporting slipped. Thank you for your time and consideration.

Ian Johnson



Oregon

Kate Brown, Governor

Government Ethics Commission

3218 Pringle Rd SE, Ste 220

Salem, OR 97302-1544

Telephone: 503-378-5105

Fax: 503-373-1456

Email: ogec.mail@oregon.gov

Website: www.oregon.gov/ogec

February 22, 2019

Shujat Qalbani
4105 Providence Dr
Saint Charles MO 63304

Dear Mr. Qalbani:

The written explanation of why your Q4 2018 Lobbyist expenditure report was filed late has been received and will be submitted to the Oregon Government Ethics Commission (Commission) for consideration at a regular meeting. The next meeting will be held on Thursday, March 7, 2019, at 9:00 a.m. The Commission will consider the matter at that time and then waive all, some, or no part of the penalty based on the explanation. Commission meetings are open to the public and you are welcome to attend. The meeting will be held in the Morrow Crane Building at 3218 Pringle Road, SE, Room 220, Salem, Oregon 97302.

The due date for the \$1,250 penalty will be extended to coincide with the March 7th meeting date. You will be notified of the outcome and will be given additional instructions regarding the penalty, if any, in writing after the meeting. You may feel free to contact this office if you have any questions concerning this matter.

Sincerely,

Commission Staff



Lobbyist Activity

Q4 2018

Lobbyist Code: 1365
User Name: shujatqalbani
Email: shujat@uniteoregon.org

Q4 2018 Filing: 2/21/2019
Q4 2018 Expended: \$0.00
Q4 2018 Penalty: \$1,250.00

Shujat Qalbani
4105 Providence Dr
Saint Charles, MO 63304

Activity Log - Q4 2018 to Date

10/02/18 10:33:50.397 - User Failed to Authenticate -
10/02/18 10:36:06.680 - User Successfully Authenticated -
10/02/18 10:37:32.727 - Lobbyist Report Submitted - Lobbyist Report Submitted for Q3 2018
01/16/19 01:30:07.480 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/17/19 01:30:07.730 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/18/19 01:30:06.860 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/19/19 01:30:07.487 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/20/19 01:30:06.270 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/21/19 01:30:07.473 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/22/19 01:30:06.263 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/23/19 01:30:06.203 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/24/19 01:30:06.483 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/25/19 01:30:07.170 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/26/19 01:30:07.190 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/27/19 01:30:06.413 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/28/19 01:30:07.603 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/29/19 01:30:06.220 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/30/19 01:30:06.197 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/31/19 01:30:06.827 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/01/19 01:30:06.880 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/02/19 01:30:07.933 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/03/19 01:30:06.190 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/04/19 01:30:06.667 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/05/19 01:30:06.637 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/06/19 01:30:06.260 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/07/19 01:30:06.700 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/08/19 01:30:06.680 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/09/19 01:30:06.010 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/10/19 01:30:05.143 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/11/19 01:30:06.173 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/12/19 01:30:06.087 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/13/19 01:30:06.273 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/14/19 01:30:06.607 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/15/19 01:30:06.413 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/16/19 01:30:06.330 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/17/19 01:30:06.247 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/18/19 01:30:06.357 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/19/19 01:30:06.520 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/20/19 01:30:07.087 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/21/19 01:30:06.700 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/21/19 03:42:59.817 - User Failed to Authenticate -
02/21/19 04:02:43.460 - Lobbyist Report Submitted - Lobbyist Report Submitted for Q4 2018
02/22/19 08:57:11.843 - User Profile Updated - The user's main profile was updated.
02/22/19 08:57:12.703 - User Profile Updated - User profile updated for Shujat Qalbani

PAST VIOLATIONS: NONE

RECOMMENDATION:

Lobbyist
Shujat Qalbani
(Signature)

From: Shujat Qalbani <shujat.qalbani@gmail.com>
Sent: Thursday, February 21, 2019 4:16 PM
To: BAIER Kathy * OGEC
Subject: Letter of Explanation

Letter of Explanation

I write today to explain the circumstances of my no filling of my required lobbying information. I was a first time lobbyist with Unite Oregon the last calendar year, however, I permanently left the state on December 26th. I did not register for the lobbying reporting system, I was automatically enrolled through my employer.

It was my understanding that I would be placed on inactive by my employer once I left my position in December. That was incorrect, and I apologise. I have filed my 4th quarter report, and I ask for the mercy of the commission for any fees I have incurred. It was my misunderstanding, and it was my only filing error. In the 2018 calendar year I consistently and timely filed my required lobbying filings. Due to the sudden nature of my departure from Oregon I mistakenly did not file the last report.

Thank you all for your time and consideration.

Sincerely,

Shujat A. Qalbani



Oregon

Kate Brown, Governor

Government Ethics Commission

3218 Pringle Rd SE, Ste 220

Salem, OR 97302-1544

Telephone: 503-378-5105

Fax: 503-373-1456

Email: ogec.mail@oregon.gov

Website: www.oregon.gov/ogec

January 24, 2019

Mecum Auction, Inc.
Attn: David Magers
445 S. Main St.
Walworth WI 53184

Dear Mr. Magers:

The written explanation of why the Q3, 2017 Client expenditure report was filed late has been received and will be submitted to the Oregon Government Ethics Commission (Commission) for consideration at a regular meeting. The next meeting will be held on Thursday, March 7, 2019, at 9:00 a.m. The Commission will consider the matter at that time and then waive all, some, or no part of the penalty based on the explanation. Commission meetings are open to the public and you are welcome to attend. The meeting will be held in the Morrow Crane Building at 3218 Pringle Road, SE, Room 220, Salem, Oregon 97302.

The due date for Q3, 2017 (\$80) penalty will be extended to coincide with the March 7th meeting date. You will be notified of the outcome and will be given additional instructions regarding the penalty, if any, in writing after the meeting. You may feel free to contact this office if you have any questions concerning this matter.

Sincerely,

Commission Staff



Client/Employer Activity

Q3 2017

Client Code: 1606
User Name: dmagers@mecum.com
Email: dmagers@mecum.com

Q3 2017 Filing: 10/23/2017
Q3 2017 Expended: \$0.00
Q3 2017 Penalty: \$80.00

Mecum Auctions, Inc.
Attn: David Magers
445 s main st
walworth , WI 53184

Activity Log - Q3 2017 to Date

07/05/17 06:50:48.443 - User Successfully Authenticated -
07/05/17 06:55:02.013 - Client Report Submitted - Client Report Submitted for Q2 2017
10/02/17 06:40:28.760 - User Failed to Authenticate -
10/02/17 06:40:34.767 - User Failed to Authenticate -
10/02/17 06:40:40.157 - User Failed to Authenticate -
10/16/17 01:30:17.430 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q3
10/16/17 06:36:03.153 - User Failed to Authenticate -
10/16/17 06:39:04.820 - User Failed to Authenticate -
10/16/17 06:39:11.470 - User Failed to Authenticate -
10/16/17 06:39:18.037 - User Failed to Authenticate -
10/16/17 06:39:22.630 - User Failed to Authenticate -
10/16/17 06:40:50.293 - User Successfully Authenticated -
10/16/17 06:41:24.553 - Client Report Saved - Client Report Saved for Q3 2017
10/17/17 01:30:14.290 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q3
10/17/17 03:24:44.053 - User Successfully Authenticated -
10/18/17 01:30:12.440 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q3
10/19/17 01:30:12.400 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q3
10/20/17 01:30:12.413 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q3
10/20/17 04:32:57.800 - User Failed to Authenticate -
10/20/17 04:33:10.090 - User Successfully Authenticated -
10/21/17 01:30:11.397 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q3
10/22/17 01:30:11.520 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q3
10/23/17 01:30:13.040 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q3
10/23/17 11:50:23.673 - User Successfully Authenticated -
10/23/17 11:51:54.520 - Client Report Submitted - Client Report Submitted for Q3 2017

PAST VIOLATIONS: NONE

RECOMMENDATION:

Letter attached
(2)

From: Nancy Loudermilk <nloudermilk@mecum.com>
Sent: Thursday, January 24, 2019 8:31 AM
To: BAIER Kathy * OGEC
Subject: Mecum -- Letter Requesting Waiver
Attachments: Oregon.pdf

RECEIVED
JAN 24 2019
OREGON GOVERNMENT
ETHICS COMMISSION

Ms. Baier --

Attached please find Dave Magers' letter requesting a Waiver from the Q3 2017 late filing penalty. Also, I want to confirm that our account is closed.

Would you kindly let me know if we receive the waiver?

Thank you again for your consideration,
Nancy Loudermilk

--

Nancy Loudermilk | Compliance Officer | Mecum Auction 445 S. Main Street, Walworth, WI 53184

Cell (615)939-2717 Office (262) 275-5050 Fax (262) 275-3424 |-



January 28, 2019

Ms. Kathy Baier
OR Government Ethics Commission
3218 Pringle Road, SE
Suite 220
Salem OR 97302-1544


RE: Mecum Auction, Inc.

Dear Ms. Baier,

This correspondence is in response to the emails we have exchanged and your telephone conversation with Nancy Loudermilk, Mecum's Compliance Officer, regarding our lobbyist registration with your office. As you are aware, our account is no longer active in the state of Oregon. The purpose of this letter is to request a waiver of the \$80 penalty assessed to us. Our failure to close out our account with your office was merely an oversight on our part.

Feel free to respond to either Nancy (nloudermilk@mecum.com) or myself (dmagers@mecum.com). I greatly appreciate your consideration of this request.

Sincerely,



David Magers
Chief Executive Officer

445 South Main Street, Walworth, WI 53184 • (262) 275-5050 • Fax: (262) 275-3424
Email: info@mecum.com • www.MECUM.com



Oregon

Kate Brown, Governor

Government Ethics Commission

3218 Pringle Rd SE, Ste 220

Salem, OR 97302-1544

Telephone: 503-378-5105

Fax: 503-373-1456

Email: ogec.mail@oregon.gov

Website: www.oregon.gov/ogec

February 19, 2019

Julian Bell
880 Glendower St.
Ashland OR 97520

Re: 2018 SEI late filing

Dear Dr. Bell:

The written explanation of why your 2018 Statement of Economic Interest report was filed late has been received and will be submitted to the Oregon Government Ethics Commission (Commission) for consideration at a regular meeting. The next meeting will be held on Thursday, March 7, 2019 at 9:00 a.m. The Commission will consider the matter at that time and then waive all, some, or no part of the penalty based on the explanation. Commission meetings are open to the public and you are welcome to attend. The meeting will be held in the Morrow Crane Building at 3218 Pringle Road, SE, Room 220, Salem, Oregon 97302.

You will be notified of the outcome and will be given additional instructions regarding the penalty, if any, in writing after the meeting. You may feel free to contact this office if you have any questions concerning this matter.

Sincerely,

Commission Staff



SEI Activity 2018

SEI Code: 3219
User Name: Julian Bell
Email: julianbellforgovernor2016@gmail.com

2018 Filing: 2/7/2019
2018 Penalty: \$5,000.00

Julian Bell
880 Glendower St.
Ashland, OR 97520

2018 Offices Held

State Senator (Primary Candidates), State Senator - Appointed 03/06/18

Activity Log - 2018 to Date

05/07/18 01:30:15.843 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018
05/08/18 01:30:12.530 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018
05/09/18 01:30:10.377 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018
05/10/18 01:30:09.537 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018
05/11/18 01:30:11.483 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018
05/12/18 01:30:11.760 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018
05/13/18 01:30:09.770 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018
05/14/18 01:30:14.007 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018
05/15/18 01:30:14.027 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018
05/16/18 01:30:11.470 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018
05/17/18 01:30:11.363 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018
05/18/18 01:30:14.767 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018
05/19/18 01:30:08.807 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018
05/20/18 01:30:09.857 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018
05/21/18 01:30:09.560 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018
05/22/18 01:30:08.977 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018
05/23/18 01:30:09.913 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
05/24/18 01:30:08.207 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
05/25/18 01:30:12.113 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
05/26/18 01:30:07.713 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
05/27/18 01:30:08.463 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
05/28/18 01:30:08.883 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
05/29/18 01:30:07.530 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
05/30/18 01:30:08.370 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
05/31/18 01:30:10.043 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/01/18 01:30:09.387 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/02/18 01:30:09.527 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/03/18 01:30:07.253 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/04/18 01:30:08.043 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/05/18 01:30:07.853 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/06/18 01:30:08.523 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/07/18 01:30:07.123 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/08/18 01:30:08.337 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/09/18 01:30:07.707 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/10/18 01:30:07.490 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/11/18 01:30:07.770 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/12/18 01:30:07.893 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/13/18 01:30:08.937 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/14/18 01:30:06.647 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/15/18 01:30:06.283 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/16/18 01:30:05.580 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/17/18 01:30:05.963 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/18/18 01:30:07.180 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/19/18 01:30:05.607 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/20/18 01:30:06.193 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/21/18 01:30:06.230 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/22/18 01:30:05.873 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/23/18 01:30:06.300 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/24/18 01:30:39.357 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/25/18 01:30:06.393 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/26/18 01:30:05.977 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/27/18 01:30:06.460 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018

SEI Activity
2018

Code: 3219
User Name: Julian Bell
Email: julianbellforgovernor2016@gmail.com

2018 Filing: 2/7/2019
2018 Penalty: \$5,000.00

Julian Bell
880 Glendower St.
Ashland , OR 97520

- 08/25/18 01:30:07.187 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
- 08/26/18 01:30:07.163 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
- 08/27/18 01:30:25.217 - Automated Late Fee Applied - Late fee of amount \$40.00 applied for reporting requirement 2018
- 01/30/19 10:46:10.107 - User Profile Updated - User profile updated for Julian Bell
- 01/30/19 10:46:10.477 - User Profile Updated - The user's main profile was updated.
- 02/07/19 10:18:48.303 - SEI Report Filed - SEI Report Filed for year 2018

PAST VIOLATIONS: NONE

RECOMMENDATION: *Letter of Ed*
(RD)

BAIER Kathy * OGEC

From: Julian Bell <julianbell@hotmail.com>
Sent: Wednesday, February 13, 2019 2:49 PM
To: BAIER Kathy * OGEC
Subject: late 2018 financial conflict of interest statement

Hello Ms Baier, I am writing to let you know that I failed to file a financial conflict of interest form during the course of my 2018 Oregon Senate District 3 primary campaign, as I had forgotten that I needed to do it based on my experiences with a prior campaign, and also because your office was not able to reach me to remind me to do so at the email from the former campaign. If there is any further documentation your office needs, please let me know by either email at this address, or by mail to the address that you have;

Julian Bell
880 Glendower St
Ashland Or 97520

Best regards

Julian Bell MD
503 577 4122



Oregon

Kate Brown, Governor

Government Ethics Commission

3218 Pringle Rd SE, Ste 220

Salem, OR 97302-1544

Telephone: 503-378-5105

Fax: 503-373-1456

Email: ogec.mail@oregon.gov

Website: www.oregon.gov/ogec

February 21, 2019

Mark Daily
305 S. 4th St.
Coos Bay OR 97420

Re: 2018 SEI late filing

Dear Mr. Daily:

The written explanation of why your 2018 Statement of Economic Interest report was filed late has been received and will be submitted to the Oregon Government Ethics Commission (Commission) for consideration at a regular meeting. The next meeting will be held on Thursday, March 7, 2019 at 9:00 a.m. The Commission will consider the matter at that time and then waive all, some, or no part of the penalty based on the explanation. Commission meetings are open to the public and you are welcome to attend. The meeting will be held in the Morrow Crane Building at 3218 Pringle Road, SE, Room 220, Salem, Oregon 97302.

You will be notified of the outcome and will be given additional instructions regarding the penalty, if any, in writing after the meeting. You may feel free to contact this office if you have any questions concerning this matter.

Sincerely,

Commission Staff



SEI Activity 2018

SEI Code: 4470
User Name: Mark Daily
Email: mdaily@coosbay.org

2018 Filing: 2/20/2019
2018 Penalty: \$5,000.00

Mark Daily
305 S 4th St.
Coos Bay, OR 97420

2018 Offices Held

State Representative (Primary Candidates), State Representative - Appointed 03/06/18

Activity Log - 2018 to Date

05/07/18 01:30:15.923 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018
05/08/18 01:30:12.623 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018
05/09/18 01:30:10.407 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018
05/10/18 01:30:09.583 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018
05/11/18 01:30:11.530 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018
05/12/18 01:30:11.837 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018
05/13/18 01:30:09.830 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018
05/14/18 01:30:14.070 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018
05/15/18 01:30:14.073 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018
05/16/18 01:30:11.580 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018
05/17/18 01:30:11.610 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018
05/18/18 01:30:14.843 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018
05/19/18 01:30:08.887 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018
05/20/18 01:30:09.933 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018
05/21/18 01:30:09.623 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018
05/22/18 01:30:09.023 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018
05/23/18 01:30:09.993 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
05/24/18 01:30:08.267 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
05/25/18 01:30:12.350 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
05/26/18 01:30:07.807 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
05/27/18 01:30:08.557 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
05/28/18 01:30:08.960 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
05/29/18 01:30:07.610 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
05/30/18 01:30:08.463 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
05/31/18 01:30:10.230 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/01/18 01:30:09.590 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/02/18 01:30:09.680 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/03/18 01:30:07.330 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/04/18 01:30:08.123 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/05/18 01:30:07.963 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/06/18 01:30:08.617 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/07/18 01:30:07.200 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/08/18 01:30:08.430 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/09/18 01:30:07.783 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/10/18 01:30:07.583 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/11/18 01:30:07.847 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/12/18 01:30:07.987 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/13/18 01:30:09.047 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/14/18 01:30:06.727 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/15/18 01:30:06.360 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/16/18 01:30:05.640 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/17/18 01:30:06.057 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/18/18 01:30:07.273 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/19/18 01:30:05.733 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/20/18 01:30:06.287 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/21/18 01:30:06.337 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/22/18 01:30:05.950 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/23/18 01:30:06.363 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/24/18 01:30:39.497 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/25/18 01:30:06.503 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/26/18 01:30:06.053 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
06/27/18 01:30:06.570 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018

SEI Activity

2018

SEI Code: 4470
User Name: Mark Daily
Email: mdaily@coosbay.org

2018 Filing: 2/20/2019
2018 Penalty: \$5,000.00

Mark Daily
305 S 4th St.
Coos Bay, OR 97420

08/25/18 01:30:07.420 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
08/26/18 01:30:07.333 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018
08/27/18 01:30:25.390 - Automated Late Fee Applied - Late fee of amount \$40.00 applied for reporting requirement 2018
01/30/19 10:56:13.610 - User Profile Updated - User profile updated for Mark Daily
01/30/19 10:56:13.963 - User Profile Updated - The user's main profile was updated.
02/20/19 03:54:30.390 - SEI Report Filed - SEI Report Filed for year 2018

PAST VIOLATIONS: NONE

RECOMMENDATION:

Letter of Ed


BAIER Kathy * OGEC

From: Mark and Gina DAILY <outdoorin@msn.com>
Sent: Wednesday, February 20, 2019 4:46 PM
To: BAIER Kathy * OGEC
Subject: Annual Varified Statement of Economic Interest

RECEIVED
FEB 20 2019
OREGON GOVERNMENT
ETHICS COMMISSION

Dear Commission,

Regarding my failure to file a timely SEI, for my candidacy for a house of representative seat, due on April 15, 2018, I inadvertently failed to update my email address and my notices for the filing were being sent to an email address which I no longer used. Thus I failed to file timely. I recently received a letter by mail notifying me of this matter and I promptly filed the 2018 SEI. I respectfully ask that you waive any penalties for my late filing as I did not deliberately intend to not file.

Thank you,

Mark Daily



Oregon

Kate Brown, Governor

Government Ethics Commission

3218 Pringle Rd SE, Ste 220

Salem, OR 97302-1544

Telephone: 503-378-5105

Fax: 503-373-1456

Email: ogec.mail@oregon.gov

Website: www.oregon.gov/ogec

February 28, 2019

Chet Chance
39500 Hwy 97 N
Chiloquin OR 97624

Re: 2016 SEI late filing

Dear Mr. Chance:

The written explanation of why your 2016 Statement of Economic Interest report was filed late has been received and will be submitted to the Oregon Government Ethics Commission (Commission) for consideration at a regular meeting. The next meeting will be held on Thursday, March 7, 2019 at 9:00 a.m. The Commission will consider the matter at that time and then waive all, some, or no part of the penalty based on the explanation. Commission meetings are open to the public and you are welcome to attend. The meeting will be held in the Morrow Crane Building at 3218 Pringle Road, SE, Room 220, Salem, Oregon 97302.

You will be notified of the outcome and will be given additional instructions regarding the penalty, if any, in writing after the meeting. You may feel free to contact this office if you have any questions concerning this matter.

Sincerely,

Commission Staff



SEI Activity

2016

SEI Code: 5184
User Name: cchance
Email: chetforgovernor@gmail.com

2016 Filing: 2/27/2019
2016 Penalty: \$5,000.00

Chet Chance
39500 Hwy 97 N
Chiloquin, OR 97624

2016 Offices Held

No data to report.

Activity Log - 2016 to Date

07/01/16 10:34:29.277 - User Profile Created - User profile created for Chet Chance
07/01/16 10:34:29.387 - User Profile Created - A new user profile was created.
07/01/16 10:34:29.400 - SEI Assigned to Seat - SEI Assigned to Seat
07/11/16 01:30:32.650 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
07/12/16 01:30:32.083 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
07/13/16 01:30:27.110 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
07/14/16 01:30:31.160 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
07/15/16 01:30:36.213 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
07/16/16 01:30:30.683 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
07/17/16 01:30:30.517 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
07/18/16 01:30:28.387 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
07/19/16 01:30:30.780 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
07/20/16 01:30:29.033 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
07/21/16 01:30:34.850 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
07/22/16 01:30:33.483 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
07/23/16 01:30:30.560 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
07/24/16 01:30:52.960 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
07/25/16 01:30:31.323 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
07/26/16 01:30:33.253 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
08/03/16 01:30:13.477 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
08/04/16 01:30:14.263 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
08/05/16 01:30:12.833 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
08/06/16 01:30:15.513 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
08/07/16 01:30:17.543 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
08/08/16 01:30:10.953 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
08/09/16 01:30:15.197 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
08/10/16 01:30:14.627 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
08/11/16 01:30:18.767 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
08/12/16 01:30:13.200 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
08/13/16 01:30:13.013 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
08/14/16 01:30:12.827 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
08/15/16 01:30:13.757 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
08/16/16 01:30:13.623 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
08/17/16 01:30:13.713 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
08/18/16 01:30:35.443 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
08/19/16 01:30:14.223 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
08/20/16 01:30:13.753 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
08/21/16 01:30:13.237 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
08/22/16 01:30:14.607 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
08/23/16 01:30:13.043 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
08/24/16 01:30:12.793 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
08/25/16 01:30:12.983 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
08/26/16 01:30:14.183 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
08/27/16 01:30:12.527 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
08/28/16 01:30:13.053 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
08/29/16 01:30:12.880 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
08/30/16 01:30:13.170 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
08/31/16 01:30:15.583 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
09/01/16 01:30:13.873 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
09/02/16 01:30:12.327 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
09/03/16 01:30:12.900 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
09/04/16 01:30:13.930 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0

SEI Activity
2016

SEI Code: 5184
User Name: cchance
Email: chetforgovernor@gmail.com

2016 Filing: 2/27/2019
2016 Penalty: \$5,000.00

Chet Chance
39500 Hwy 97 N
Chiloquin, OR 97624

09/05/16 01:30:13.227 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
09/06/16 01:30:13.973 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
09/07/16 01:30:14.970 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
09/08/16 01:30:14.557 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
09/09/16 01:30:14.083 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
09/10/16 01:30:12.960 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
09/11/16 01:30:12.873 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
09/12/16 01:30:14.427 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
09/13/16 01:30:15.253 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
09/14/16 10:23:26.947 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
09/15/16 01:30:13.867 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
09/16/16 01:30:14.423 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
09/17/16 01:30:14.700 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
09/18/16 01:30:17.247 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
09/19/16 01:30:13.477 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
09/20/16 01:30:13.560 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
09/21/16 01:30:15.020 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
09/22/16 01:30:17.890 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
09/23/16 01:30:34.803 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
09/24/16 01:30:13.527 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
09/25/16 01:30:35.453 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
09/26/16 01:30:14.527 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
09/27/16 01:30:15.470 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
09/28/16 01:30:12.143 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
09/29/16 01:30:13.150 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
09/30/16 01:30:12.573 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
09/30/16 07:01:44.613 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
10/05/16 01:30:11.813 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
10/07/16 01:30:14.860 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2016 Q0
01/30/19 10:21:10.120 - User Profile Updated - User profile updated for Chet Chance
01/30/19 10:21:10.473 - User Profile Updated - The user's main profile was updated.
02/22/19 12:00:45.973 - User Profile Updated - User profile updated for Chet Chance
02/22/19 12:00:46.120 - User Profile Updated - The user's main profile was updated.
02/27/19 03:10:05.510 - Admin User Reset Initiated - An admin user reset was initiated.
02/27/19 03:35:36.050 - Admin User Password Reset Completed - A user reset their password using an admin reset.
02/27/19 03:36:17.693 - User Successfully Authenticated -
02/27/19 03:46:02.593 - SEI Report Filed - SEI Report Filed for year 2016

PAST VIOLATIONS: NONE

RECOMMENDATION:

Letter IED
R

RECEIVED
FEB 28 2019
OREGON GOVERNMENT
ETHICS COMMISSION

On Wed, Feb 27, 2019, 4:56 PM Chet Chance <chetforgovernor@gmail.com> wrote:

Dear Commissioners,

The reason for my late filing is that I had to suspend my campaign due to a family emergency. My mother ran adult foster homes over in Bend and I had to move from Eugene to Bend in order to close her business and sell her house due to a diagnosis of Alzheimer's. For this reason I failed to file my SEI and I do apologize and ask for a waiver of penalties at this time.

Candidate for Governor 2016,
Chet Eugene Chance



Oregon

Kate Brown, Governor

Government Ethics Commission

3218 Pringle Rd SE, Ste 220

Salem, OR 97302-1544

Telephone: 503-378-5105

Fax: 503-373-1456

Email: ogec.mail@oregon.gov

Website: www.oregon.gov/ogec

February 26, 2019

Mel Rader
2422 SE 35th Place
Portland OR 97214

Dear Mr. Rader:

The written explanation of why your Q1 2017 Lobbyist expenditure report was filed late has been received and will be submitted to the Oregon Government Ethics Commission (Commission) for consideration at a regular meeting. The next meeting will be held on Thursday, March 7, 2019, at 9:00 a.m. The Commission will consider the matter at that time and then waive all, some, or no part of the penalty based on the explanation. Commission meetings are open to the public and you are welcome to attend. The meeting will be held in the Morrow Crane Building at 3218 Pringle Road, SE, Room 220, Salem, Oregon 97302.

The due date for the \$5,000 penalty will be extended to coincide with the March 7th meeting date. You will be notified of the outcome and will be given additional instructions regarding the penalty, if any, in writing after the meeting. You may feel free to contact this office if you have any questions concerning this matter.

Sincerely,

Commission Staff



Lobbyist Activity

Q1 2017

Lobbyist Code: 168
User Name: Mel Rader
Email: mel@upstreampublichealth.org

Q1 2017 Filing: 2/25/2019
Q1 2017 Expended: \$0.00
Q1 2017 Penalty: \$5,000.00

Mel Rader
2422 SE 35th Place
Portland, OR 97214

08/03/17 01:30:09.687 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
08/04/17 01:30:09.050 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
08/05/17 01:30:48.973 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
08/06/17 01:30:09.567 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
01/30/19 09:44:13.850 - User Profile Updated - User profile updated for Mel Rader
01/30/19 09:44:14.210 - User Profile Updated - The user's main profile was updated.
02/25/19 02:39:01.463 - Lobbyist Report Submitted - Lobbyist Report Submitted for Q1 2017

PAST VIOLATIONS: Q3 2016, 3 days late, received Letter of Education

RECOMMENDATION:

10% fine violation \$500⁰⁰

Lobbyist Activity

Q1 2017

Lobbyist Code: 168
Lobbyist Name: Mel Rader
Email: mel@upstreampublichealth.org
Mel Rader
2422 SE 35th Place
Portland, OR 97214

Q1 2017 Filing: 2/25/2019
Q1 2017 Expended: \$0.00
Q1 2017 Penalty: \$5,000.00

Activity Log - Q1 2017 to Date

01/10/17 01:58:03.850 - User Failed to Authenticate -
01/10/17 01:58:21.320 - User Successfully Authenticated -
01/10/17 01:59:06.183 - Lobbyist Report Submitted - Lobbyist Report Submitted for Q4 2016
01/16/17 01:31:21.600 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q4
01/17/17 01:31:31.093 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2016 Q4
04/15/17 01:30:17.783 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q1
04/16/17 01:30:14.040 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q1
04/17/17 01:30:17.497 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q1
04/18/17 01:30:15.393 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q1
04/19/17 01:30:15.530 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q1
04/20/17 01:30:15.003 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q1
04/21/17 01:30:12.910 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q1
04/22/17 01:30:12.383 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q1
04/23/17 01:30:12.977 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q1
04/24/17 01:30:13.090 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q1
04/25/17 01:30:14.470 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q1
04/26/17 01:30:11.217 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q1
04/27/17 01:30:09.857 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q1
04/28/17 01:30:10.087 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q1
04/29/17 01:30:10.007 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q1
04/30/17 01:30:11.470 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2017 Q1
05/01/17 01:30:12.947 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
05/02/17 01:30:10.640 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
05/03/17 01:30:10.853 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
05/04/17 01:30:10.223 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
05/05/17 01:30:10.717 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
05/06/17 01:30:09.817 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
05/07/17 01:30:31.300 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
05/08/17 01:30:11.960 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
05/09/17 01:30:09.763 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
05/10/17 01:30:09.930 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
05/11/17 01:30:10.233 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
05/12/17 01:30:09.890 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
05/13/17 01:30:08.530 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
05/14/17 01:30:08.277 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
05/15/17 01:30:12.063 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
05/16/17 01:30:09.787 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
05/17/17 01:30:10.260 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
05/18/17 01:30:10.440 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
05/19/17 01:30:09.517 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
05/20/17 01:30:13.367 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
05/21/17 01:30:10.840 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
05/22/17 01:30:12.407 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
05/23/17 01:30:12.450 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
05/24/17 01:30:09.903 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
05/25/17 01:30:09.627 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
05/26/17 01:30:10.517 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
05/27/17 01:30:10.337 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
05/28/17 01:30:08.843 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
05/29/17 01:30:12.120 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
05/30/17 01:30:09.963 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
05/31/17 01:30:09.467 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
06/01/17 01:30:11.723 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
06/02/17 01:30:10.257 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
06/03/17 01:30:09.377 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1
06/04/17 01:30:09.130 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2017 Q1

RECEIVED
FEB 26 2019
OREGON GOVERNMENT
ETHICS COMMISSION

February 25, 2019

Dear Government Ethics Commission:

I am writing to request a waiver of the fee for not filing a lobbyist expenditure report in Q1 of 2017.

I served as a lobbyist in 2016 and earlier, but ended my employment on December 31st, 2016 at Upstream Public Health that I lobbied on behalf of. I assisted the organization in filing the Q4 2016 forms and also terminated my lobbying registration in January of 2017. I was not aware that I needed to file a quarterly expenditure report for Q1 2017. I understand that a notice was sent to my email on January 18th, 2017, but at that time I had left the organization and was not checking that email address.

Shortly after I left, the organization closed its office and it was unable to be reached by the phone or mail on record. I did not receive any notice that Q1 2017 forms were not filed. The first time I heard that there was a problem with the forms was in February, 2019 when I received a letter at my home that the form was not filed. I quickly contacted the office and filed the form for myself over the phone.

During the period in question, which was 18 days in January of 2017, I did no lobbying and had no formal association with the organization that was listed as a lobbying organization. If I was aware that a form needed to be filed, I would have done it immediately, but I was not aware of this issue until February of 2019.

Thank you for your consideration,

Mel Rader



Oregon

Kate Brown, Governor

Government Ethics Commission

3218 Pringle Rd SE, Ste 220

Salem, OR 97302-1544

Telephone: 503-378-5105

Fax: 503-373-1456

Email: ogec.mail@oregon.gov

Website: www.oregon.gov/ogec

February 25, 2019

Oregon Nurses Association
Attn: Chris Ross
18765 SW Boones Ferry Rd, Suite 200
Tualatin OR 97062

Dear Chris Ross:

The written explanation of why the Q4, 2018 Client expenditure report was filed late has been received and will be submitted to the Oregon Government Ethics Commission (Commission) for consideration at a regular meeting. The next meeting will be held on Thursday, March 7, 2019, at 9:00 a.m. The Commission will consider the matter at that time and then waive all, some, or no part of the penalty based on the explanation. Commission meetings are open to the public and you are welcome to attend. The meeting will be held in the Morrow Crane Building at 3218 Pringle Road, SE, Room 220, Salem, Oregon 97302.

The due date for Q4, 2018 (\$1,300) penalty will be extended to coincide with the March 7th meeting date. You will be notified of the outcome and will be given additional instructions regarding the penalty, if any, in writing after the meeting. You may feel free to contact this office if you have any questions concerning this matter.

Sincerely,

Commission Staff



Client/Employer Activity

Q4 2018

Client Code: 107
User Name: rbelozer
Email: ross@oregonrn.org

Q4 2018 Filing: 2/22/2019
Q4 2018 Expended: \$98,223.96
Q4 2018 Penalty: \$1,300.00

Oregon Nurses Association
Attn: Chris Ross
18765 SW Boones Ferry Road Suite #200
Tualatin, OR 97062

Activity Log - Q4 2018 to Date

10/15/18 07:36:41.023 - User Successfully Authenticated -
10/15/18 08:14:37.097 - User Failed to Authenticate -
10/15/18 08:15:54.427 - User Successfully Authenticated -
10/15/18 08:42:20.283 - Client Report Submitted - Client Report Submitted for Q3 2018
01/16/19 01:30:09.227 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/17/19 01:30:08.747 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/18/19 01:30:07.187 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/19/19 01:30:08.233 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/20/19 01:30:07.050 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/21/19 01:30:07.893 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/22/19 01:30:06.543 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/23/19 01:30:06.500 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/24/19 01:30:06.857 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/25/19 01:30:07.560 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/26/19 01:30:07.580 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/27/19 01:30:06.817 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/28/19 01:30:08.010 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/29/19 01:30:06.610 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/30/19 01:30:06.493 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/31/19 01:30:07.230 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/01/19 01:30:07.143 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/02/19 01:30:08.263 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/03/19 01:30:06.487 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/04/19 01:30:06.977 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/05/19 01:30:06.933 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/06/19 01:30:06.603 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/07/19 01:30:07.027 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/08/19 01:30:06.947 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/09/19 01:30:06.307 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/10/19 01:30:05.440 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/11/19 01:30:06.563 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/12/19 01:30:06.383 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/13/19 01:30:06.520 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/14/19 01:30:06.933 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/15/19 01:30:06.790 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/16/19 01:30:06.563 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/17/19 01:30:06.557 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/18/19 01:30:06.623 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/19/19 01:30:06.740 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/20/19 01:30:07.307 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/21/19 01:30:06.920 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/22/19 01:30:05.847 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/22/19 02:33:06.387 - Admin User Reset Initiated - An admin user reset was initiated.
02/22/19 02:38:35.450 - Admin User Password Reset Completed - A user reset their password using an admin reset.
02/22/19 02:39:23.823 - User Successfully Authenticated -
02/22/19 02:39:50.590 - User Profile Updated - The user's main profile was updated.
02/22/19 02:39:50.740 - User Profile Updated - User profile updated for Chris Rayborn
02/22/19 02:40:26.100 - User Profile Updated - User profile updated for Chris Ross
02/22/19 02:40:26.187 - User Profile Updated - The user's main profile was updated.
02/22/19 02:41:05.047 - Admin User Reset Initiated - An admin user reset was initiated.
02/22/19 02:53:47.097 - Admin User Password Reset Completed - A user reset their password using an admin reset.
02/22/19 02:53:57.973 - User Successfully Authenticated -
02/22/19 03:44:29.937 - Client Report Submitted - Client Report Submitted for Q4 2018

PAST VIOLATIONS:

Q4 2017, 3 days late, paid by check
Q1 2018, 8 days late, paid by check

RECOMMENDATION:

3rd Violation 20% \$260⁰⁰

February 22, 2019

Dear Ethics Commission:

I'm writing to ask for a waiver or reduction of penalties incurred for a late filing of Q4 reports.

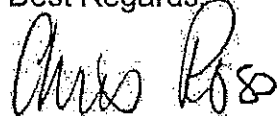
Christopher Rayborn was our contact person for these filings and he left in September of 2018. Unfortunately, this task did not get passed to someone else in our office. His email was turned off and we did not realize that these filings existed.

Kathy Baier contacted us Friday, February 22, 2019 and we corrected this oversight immediately.

I am now set up to receive the emails and reminders so that this will not happen in the future.

Thank you for your consideration.

Best Regards,



Chris Ross
Finance Specialist
Oregon Nurses Association
18765 SW Boones Ferry Road, Suite 200
Tualatin, OR 97062
503.293.0011, 1.800.634.3552, x1334
Fax 503.293.0013
ross@oregonrn.org



Oregon

Kate Brown, Governor

Government Ethics Commission

3218 Pringle Rd SE, Ste 220

Salem, OR 97302-1544

Telephone: 503-378-5105

Fax: 503-373-1456

Email: ogec.mail@oregon.gov

Website: www.oregon.gov/ogec

February 25, 2019

Oregon Collectors Association
Attn: Justin Watkins
PO Box 4070
Medford OR 97501

Dear Mr. Watkins:

The written explanation of why the Q4, 2018 Client expenditure report was filed late has been received and will be submitted to the Oregon Government Ethics Commission (Commission) for consideration at a regular meeting. The next meeting will be held on Thursday, March 7, 2019, at 9:00 a.m. The Commission will consider the matter at that time and then waive all, some, or no part of the penalty based on the explanation. Commission meetings are open to the public and you are welcome to attend. The meeting will be held in the Morrow Crane Building at 3218 Pringle Road, SE, Room 220, Salem, Oregon 97302.

The due date for Q4 2018 (\$1,400) and Q3 2018 (\$10) penalty will be extended to coincide with the March 7th meeting date. You will be notified of the outcome and will be given additional instructions regarding the penalty, if any, in writing after the meeting. You may feel free to contact this office if you have any questions concerning this matter.

Sincerely,

Commission Staff



Client/Employer Activity

Q4 2018

Client Code: 589
User Name: sispieces
Email: justin@socredit.com

Q4 2018 Filing: 2/25/2019
Q4 2018 Expended: \$18,576.00
Q4 2018 Penalty: \$1,400.00

Oregon Collectors Association
Attn: Justin Watkins
PO Box 4070
Medford, OR 97501

02/25/19 10:08:04.783 - Client Report Saved - Client Report Saved for Q4 2018
02/25/19 10:08:39.627 - Client Report Submitted - Client Report Submitted for Q4 2018
02/25/19 10:32:33.707 - User Profile Updated - User profile updated for Justin Watkins
02/25/19 10:32:33.883 - User Profile Updated - The user's main profile was updated.
02/25/19 10:33:38.817 - User Profile Updated - User profile updated for Justin Watkins
02/25/19 10:33:38.980 - User Profile Updated - The user's main profile was updated.

PAST VIOLATIONS: \$10 Q3 2018 *Let's handle Ed*
RECOMMENDATION: *10% 2nd violation \$140⁰⁰*

Client/Employer Activity

Q4 2018

Client Code: 589
Company Name: sispieces
Email: justin@socredit.com

Oregon Collectors Association
Attn: Justin Watkins
PO Box 4070
Medford, OR 97501

Q4 2018 Filing: 2/25/2019
Q4 2018 Expended: \$18,576.00
Q4 2018 Penalty: \$1,400.00

Activity Log - Q4 2018 to Date

10/16/18 01:30:08.170 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q3
10/16/18 08:40:53.600 - User Failed to Authenticate -
10/16/18 08:41:57.697 - User Failed to Authenticate -
10/16/18 08:44:01.683 - User Successfully Authenticated -
10/16/18 08:49:45.400 - Client Report Submitted - Client Report Submitted for Q3 2018
01/16/19 01:30:09.353 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/17/19 01:30:09.197 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/18/19 01:30:07.250 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/19/19 01:30:08.327 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/20/19 01:30:07.143 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/21/19 01:30:07.957 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/22/19 01:30:06.593 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/23/19 01:30:06.533 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/24/19 01:30:06.887 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/25/19 01:30:07.640 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/26/19 01:30:07.660 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/27/19 01:30:06.863 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/28/19 01:30:08.057 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/29/19 01:30:06.657 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/30/19 01:30:06.540 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/31/19 01:30:07.323 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
02/01/19 01:30:07.207 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/02/19 01:30:08.310 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/03/19 01:30:06.563 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/04/19 01:30:07.023 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/05/19 01:30:06.993 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/06/19 01:30:06.663 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/07/19 01:30:07.090 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/08/19 01:30:06.993 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/09/19 01:30:06.370 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/10/19 01:30:05.503 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/11/19 01:30:06.670 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/12/19 01:30:06.477 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/13/19 01:30:06.600 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/14/19 01:30:06.997 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/15/19 01:30:06.883 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/16/19 01:30:06.643 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/17/19 01:30:06.637 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/18/19 01:30:06.683 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/19/19 01:30:06.803 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/20/19 01:30:07.370 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/21/19 01:30:06.980 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/22/19 01:30:05.910 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/23/19 01:30:06.780 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/25/19 01:30:06.323 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/25/19 09:59:20.603 - Admin User Reset Initiated - An admin user reset was initiated.
02/25/19 10:00:14.710 - Admin User Password Reset Completed - A user reset their password using an admin reset.
02/25/19 10:00:47.727 - User Successfully Authenticated -
02/25/19 10:01:53.370 - User Profile Updated - User profile updated for Christopher Bevans
02/25/19 10:01:53.527 - User Profile Updated - The user's main profile was updated.
02/25/19 10:02:29.077 - User Profile Updated - User profile updated for Justin Watkins
02/25/19 10:02:29.190 - User Profile Updated - The user's main profile was updated.
02/25/19 10:03:47.130 - Admin User Reset Initiated - An admin user reset was initiated.
02/25/19 10:04:37.930 - Admin User Password Reset Completed - A user reset their password using an admin reset.
02/25/19 10:04:45.210 - User Successfully Authenticated -

Client/Employer Activity

Q3 2018

Client Code: 589
User Name: sispieces
Email: justin@socredit.com

Q3 2018 Filing: 10/16/2018
Q3 2018 Expended: \$20,076.00
Q3 2018 Penalty: \$10.00

Oregon Collectors Association
Attn: Justin Watkins
PO Box 4070
Medford, OR 97501

Activity Log - Q3 2018 to Date

07/02/18 07:59:37.233 - User Successfully Authenticated -
07/02/18 08:01:13.567 - User Password Reset - The user's password was reset from the "My Profile" page.
07/02/18 08:01:13.593 - User Profile Updated - User profile updated for Justin Watkins
07/02/18 08:01:13.613 - User Profile Updated - The user's main profile was updated.
07/15/18 08:39:07.907 - User Successfully Authenticated -
07/15/18 08:52:08.177 - Client Report Submitted - Client Report Submitted for Q2 2018
07/15/18 08:53:22.303 - Name Change Requested - User with ID 776 requested a name change to Bevans, Christopher .
07/15/18 08:54:51.653 - User Password Reset - The user's password was reset from the "My Profile" page.
07/15/18 08:54:51.830 - User Profile Updated - User profile updated for Justin Watkins
07/15/18 08:54:51.883 - User Profile Updated - The user's main profile was updated.
07/16/18 12:22:08.277 - User Profile Updated - User profile updated for Christopher Bevans
07/16/18 12:22:08.320 - User Profile Updated - The user's main profile was updated.
10/16/18 01:30:08.170 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q3
10/16/18 08:40:53.600 - User Failed to Authenticate -
10/16/18 08:41:57.697 - User Failed to Authenticate -
10/16/18 08:44:01.683 - User Successfully Authenticated -
10/16/18 08:49:45.400 - Client Report Submitted - Client Report Submitted for Q3 2018
01/16/19 01:30:09.353 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/17/19 01:30:09.197 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/18/19 01:30:07.250 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/19/19 01:30:08.327 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/20/19 01:30:07.143 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
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01/27/19 01:30:06.863 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
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01/29/19 01:30:06.657 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
01/30/19 01:30:06.540 - Automated Late Fee Applied - Late fee of amount \$10.00 applied for reporting requirement 2018 Q4
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02/03/19 01:30:06.563 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
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02/10/19 01:30:05.503 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/11/19 01:30:06.670 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
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02/17/19 01:30:06.637 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/18/19 01:30:06.683 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
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02/20/19 01:30:07.370 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/21/19 01:30:06.980 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4
02/22/19 01:30:05.910 - Automated Late Fee Applied - Late fee of amount \$50.00 applied for reporting requirement 2018 Q4

Justin Watkins

PO Box 4070 Medford, OR 97501

February 25th, 2019

To,

OR Government Ethics Commission

I was recently made aware that the Oregon Collectors Association (ORCA), for which I serve as Vice President, had not filed our Quarter 4 expenditure report. On behalf of ORCA I greatly apologize as this was by no means on purpose or in any way an attempt to shirk our responsibilities.

These duties are normally performed by our Treasurer, unfortunately our Treasurer had to step down in December 2018 and we were unable to find someone to fill the position. Due to this I have stepped into the role as Vice President and Treasurer until we are able to install a new Officer.

In this transition the email notifications that were going to our now resigned Treasurer did not get forwarded on to the people who had the authority to properly handle the situation and file the reports and the alternative contact information had not been provided as the remaining board members believed. I have filed the Quarter 4 report as of the writing of this letter as well as added our Executive Director's contact information onto the alternative contact information on the website so that this does not happen again.

I request on behalf of ORCA that we have the \$1400 fee waived or reduced for our failure to report our Quarter 4 filing as it was not through malice nor deceit, but due to the loss of the person who's job it was ensure it was done.

I also became aware of a \$10 penalty due to a late filing of our Quarter 3 report, for this we have no problem paying the fee as this was done while the now stepped down Treasurer was in place and was aware of the time sensitive nature of these reports.

I am available if there are any questions or other issues that need to be discussed.

Respectfully,

Justin Watkins

Vice President

Oregon Collectors Association

SEI History

2014

2/26/2019

Type: CI

Jurisdiction: LYONS

Office: COUNCIL

BYRON BROWN
295 10TH ST
PO BOX 535
LYONS, OR 97358

Received: 3/9/2018

Penalty: \$5,000.00

Comments:

3/14/14 Original SEI form mailed to filer; due date for SEI 4/15/14.

4/23/14 Reminder sent to non-filers to file by 5/15/14 to avoid late penalties.

5/16/14 Notice that penalties are accruing and will continue until SEI filed.

9/5/14 Malumum penalty of \$5,000 reached for non-filers.

2/5/18 Notified by letter of failure to file 2014 SEI and provided form for completion.

3/9/18 Brown filed 2014 SEI.

EE CMS Case No 18-018SMT

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SEI History

2014

2/26/2019

Type: CI

Jurisdiction: GRESHAM

Office: DESIGN COMM

ROBERT COOK
30121 SE PIPELINE RD

Received: 2/28/2018

GRESHAM, OR 97080

Penalty: \$5,000.00

Comments:

3/14/14 Original SEI forms mailed to filers, due date 4/15/14.
4/23/14 Reminder sent to non-filers to file by 5/15/14 to avoid late penalty.
5/16/14 Notice that penalties are accruing and will continue until SEI filed.
9/5/14 Penalties reached \$5,000 maximum for non-filers

2/5/18 Letter re failure to file 2014 SEI and provided form to complete.
2/28/18 Cook filed 2014 SEI and addenda on 5/31/18.

SEE CMS 18-020SMT

2015 SEI History

2/26/2019

Type: CI

Jurisdiction: GRESHAM

Office: DESIGN COMM

ROBERT COOK
30121 SE PIPELINE RD

Received: 2/28/2018

GRESHAM, OR 97080

Penalty: \$5,000.00

Comments:

3/13/15 Original SEI forms mailed to filers; due date 4/15/15.
4/23/15 Reminder sent to non-filers to file by 5/15/15 to avoid late penalty.
5/21/15 Notice to non-filers that penalties accruing until SEI filed.
9/5/15 Penalties reached \$5,000 maximum for non-filers.

2/5/18 Letter re failure to file 2015 SEI and provided form to complete.
2/28/18 Cook filed 2015 SEI.

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SEI History

2014

2/27/2019

Type: ST

Jurisdiction: CRIMINAL JUSTICE COMM

Office: DIRECTOR

CRAIG PRINS
885 SUMMER ST NE

Received: 2/27/2018

SALEM, OR 97301

Penalty: \$5,000.00

Comments:

3/14/14 Original 2014 SEI form mailed to filers, completed SEI due 4/15/14.
4/23/14 Reminder sent to non-filer to file by 5/15/14 to avoid late penalty.
5/16/14 Notice sent to non-filer that penalties are accruing until SEI filed.
9/5/14 Maximum penalty reached for non-filer. \$5,000.

2/9/18 Notified of failure to file 2014 SEI and provided form for completion.
2/27/18 Prins filed 2014 SEI.

EE CMS 18-045SMT

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SEI History

2014

2/26/2019

Type: CO

Jurisdiction: CURRY CO

Office: COMMISSION

DAVID B SMITH
PO BOX 951

Received:

PORT ORFORD, OR 97465

Penalty: \$5,000.00

Comments:

3/14/14 Original SEI form mailed to filer; completed SEI due 4/15/14.
4/23/14 Reminder sent to non-filer to file by 5/15/14 to avoid late penalty.
5/16/14 Notice send to non-filer re penalties accruing until SEI filed.
9/5/14 Maximum penalty of \$5,000 reached for non-filing.

2/5/18 Notified of failure to file 2014 SEI and provided form for completeion.
5/31/18 Smith filed 2014 SEI.

EE CMS 18-051SMT

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BEFORE THE OREGON GOVERNMENT ETHICS COMMISSION

In the Matter of)

CYLVIA HAYES)
_____)

FINAL ORDER

CASE NO. 14-191EDT

1. PURPOSE: The purpose of this final order is to settle any and all claims, allegations and charges by the Oregon Government Ethics Commission (Commission) against Cylvia Hayes.
2. JURISDICTION: At all material times, Cylvia Hayes was the First Lady of Oregon and an unpaid policy advisor to the Governor of Oregon. Ms. Hayes was a public official subject to the jurisdiction of the Commission pursuant to ORS Chapter 244.
3. FACTS AS ALLEGED:
 - A. Cylvia Hayes was the First Lady of Oregon and an unpaid policy advisor to the Governor of Oregon on issues of clean energy, ocean health, and a clean economy from January 2011 to February 2015 when the events relevant to this case occurred.
 - B. During the time period relevant to this case, Ms. Hayes was the owner of 3E Strategies, LLC, a private for-profit business. 3E Strategies was a business with which she was associated, as defined in ORS 244.020(3). During the period 2011-2013, Ms. Hayes and 3E Strategies received payment to advocate, write, and speak on issues of clean energy, ocean health, and a clean economy.
 - C. Ms. Hayes was employed by Rural Development Initiatives (RDI) from February to July 2011 to work on clean economy issues and to raise funds. During her employment with RDI, Ms. Hayes had opportunities to contribute to policy decisions in the Office of the Governor and to make public appearances in her

official capacity as First Lady of Oregon. Those policies and appearances overlapped with the issues on which she was paid to work for RDI. She also had opportunities to involve Governor Kitzhaber and Governor's office staff in appearances and meetings supporting her work and to appear with Governor Kitzhaber at events related to her work. Ms. Hayes used these opportunities, which would not have been available but for her official position, to work on clean economy matters which simultaneously fulfilled her RDI employment duties as a paid employee and her roles as First Lady and advisor to the Governor.

- D. During 2011 and 2012, Ms. Hayes was a Clean Economy Acceleration Fellow with the Clean Economy Development Center (CEDC). Ms. Hayes solicited funding from staff of the Rockefeller Brothers Foundation and the Energy Foundation who were also working with the Office of the Governor on the same policy issues at the time, and knew that Ms. Hayes was First Lady and advisor to the Governor. The funders accepted the proposals and funded the fellowship program with the understanding that Ms. Hayes would be one of the paid fellows.
- E. During her fellowship with CEDC, payments for which were made through 3E Strategies, Ms. Hayes had opportunities to contribute to policy decisions in the Office of the Governor and to make public appearances in her official capacity as First Lady of Oregon. Those policies and appearances overlapped with the issues on which she was paid to work as a fellow with CEDC. She also had opportunities to involve Governor Kitzhaber and his staff in appearances and meetings supporting her work and to appear with Governor Kitzhaber at events related to her fellowship. Ms. Hayes used these opportunities, which would not have been available but for her official position, to work on clean economy matters which simultaneously fulfilled her obligations under the paid CEDC fellowship and her roles as First Lady and advisor to the Governor.
- F. Ms. Hayes, through 3E Strategies, entered into a contract with the Energy Foundation to work on clean economy acceleration issues for the period 5/1/13 to 12/31/13. Ms. Hayes solicited funding for this contract from the Rockefeller Brothers Foundation and the Energy Foundation. Both funders knew of Ms. Hayes's role as First Lady and policy advisor to the Governor, and this contract

built on the accomplishments of Ms. Hayes's CEDC Fellowship, which was also funded by the Rockefeller Brothers Foundation and the Energy Foundation and included work with the Office of the Governor.

- G. During her contract work with the Energy Foundation, Ms. Hayes had opportunities to contribute to policy decisions in the Office of the Governor and to make public appearances in her official capacity as First Lady of Oregon. Those policies and appearances overlapped with the issues on which she was paid to work for the Energy Foundation. She also had opportunities to involve Governor Kitzhaber and Governor's office staff in appearances and meetings supporting her work and to appear with Governor Kitzhaber at events related to her work for the Energy Foundation. Ms. Hayes used these opportunities, which would not have been available but for her official position, to work on the clean economy acceleration matters, which simultaneously fulfilled her obligations under her paid Energy Foundation contract and her roles as First Lady and advisor to the Governor.

- H. Ms. Hayes, through 3E Strategies, entered into a contract with Resource Media to work on ocean health issues for the period 2/19/13 to 12/31/13. Ms. Hayes solicited funding for this contract from the Packard, Lazar, and Marisla Foundations. Grant applications to fund the contract used Ms. Hayes's title of First Lady and the accomplishments of the CEDC fellowship, which included work with the Office of the Governor.

- I. During the period of her contract with Resource Media, Ms. Hayes had opportunities to contribute to policy decisions in the Office of the Governor and to make public appearances in her official capacity as First Lady of Oregon. Those policies and appearances overlapped with the issues on which she was paid to work for Resource Media. She also had opportunities to involve Governor Kitzhaber and Governor's Office staff in appearances and meetings supporting her work and to appear with Governor Kitzhaber at events related to her work for Resource Media. Ms. Hayes used these opportunities, which would not have been available but for her official position, to work on the matter of ocean health, which simultaneously fulfilled her obligations under her paid Resource Media

contract and her roles as First Lady and advisor to the Governor.

- J. Ms. Hayes, through 3E Strategies, entered into a contract with Demos to work on Genuine Progress Indicator issues for the period 6/1/13 to 11/30/13. Demos knew of Ms. Hayes's role as First Lady and policy advisor to the Governor, and Ms. Hayes had worked with Demos in her role in the Office of the Governor to analyze Oregon's baseline GPI. Ms. Hayes maintains that all work under the contract was directed at consulting outside the state of Oregon.
- K. During the period Ms. Hayes was working under contract with Demos, she had opportunities to contribute to policy decisions in the Office of the Governor and to make public appearances in her official capacity as First Lady of Oregon. Those policies and appearances overlapped with the issues on which she was paid to work for Demos. She also had opportunities to involve Governor Kitzhaber and Governor's office staff in appearances and meetings supporting her work and to appear with Governor Kitzhaber at events related to her work for Demos. Ms. Hayes used these opportunities, which would not have been available but for her official position, to work on GPI issues, which simultaneously fulfilled her obligations under the Demos paid contract and her roles as First Lady and advisor to the Governor.
- L. During the period January 2011-February 2015, Ms. Hayes received assistance from staff in the Office of the Governor in scheduling travel and meetings for her private business. Ms. Hayes also requested and received assistance from subject matter experts employed by the state to provide her with specific information, which she used to fulfill her paid contracts.
- M. During the period January 2011-February 2015, Ms. Hayes received pet care from staff in the Office of the Governor when traveling and attending to her private business clients.
- N. During the period January 2011-February 2015, Ms. Hayes received personal travel rewards on credit cards used to book travel through the Office of the Governor and frequent flyer miles for flights booked through the Office of the Governor on one or more occasions when she traveled representing state

government.

- O. ORS 244.040(1) prohibits a public official from using their official position or office to obtain financial gain for the public official or a business with which the public official is associated, if the financial gain or avoidance of financial detriment would not be available but for the public official's holding of their official position or office. Pursuant to ORS 292.230(2), the use of travel awards for personal travel when those awards are obtained while conducting state business constitutes personal gain from state employment and violates ORS 244.040.
- P. Ms. Hayes used her position as First Lady and policy advisor to the Governor when soliciting and securing funding on occasions from eight (8) organizations that funded her private, paid contracts. Ms. Hayes also used her official position to fulfill the requirements of each of the four (4) paid contracts and the one (1) paid position she held during the relevant period. The actions described in paragraphs C, D, E, F, G, H, I, J, and K, constituted thirteen (13) separate violations of the prohibition on use of official position for personal financial gain in ORS 244.040(1).
- Q. Ms. Hayes used her position as First Lady and policy advisor to the Governor to obtain a financial gain or avoid a financial detriment for herself or her business when she availed herself of the resources and staff of the Governor's Office to schedule travel and meetings for her private business, and care for her pets, and when she received personal travel rewards when travelling on official business. The actions described in paragraphs L, M, and N, constituted three (3) violations of the prohibition on use of official position for personal financial gain in ORS 244.040(1).
- R. Ms. Hayes was met with potential conflicts of interest in her official position as First Lady and policy advisor to the Governor while she was employed by RDI in 2011 because her policy recommendations and public appearances in her official capacity could have resulted in a financial benefit or detriment to her personally or to 3E Strategies, a business with which she was associated.
- S. Ms. Hayes was met with potential conflicts of interest in her official position as

First Lady and policy advisor to the Governor while she was a fellow with CEDC in 2011 and 2012 because her policy recommendations and public appearances in her official capacity could have resulted in a financial benefit or detriment to her personally or to 3E Strategies, a business with which she was associated.

- T. Ms. Hayes was met with potential conflicts of interest in her official position as First Lady and policy advisor to the Governor while was performing paid contractual work for Resource Media, the Energy Foundation, and Demos in 2013 because her policy recommendations and public appearances in her official capacity could have resulted in a financial benefit or detriment to her personally or to 3E Strategies, a business with which she was associated.

- U. ORS 244.120 requires public officials to disclose conflicts of interest prior to taking any official action that could or would result in financial impact to the public official, a relative of the public official or a business with which the public official or a relative is associated. An appointed official, such as Ms. Hayes, is required by ORS 244.120(1)(c) to notify in writing the person who appointed her to office of the nature of the conflict, and request that the appointing authority dispose of the matter giving rise to the conflict. Upon receipt of the request, the appointing authority shall designate within a reasonable time an alternate to dispose of the matter, or shall direct the official to dispose of the matter in a manner specified by the appointing authority.

- V. Ms. Hayes maintains that she notified senior staff within the administration about her efforts to obtain consulting work and solicited advice about the draft contracts. Later, in July 2013, Ms. Hayes disclosed to Curtis Robinhold, Chief of Staff in the Office of the Governor, that she had been performing paid work under three different contracts with the Energy Foundation, Resource Media, and Demos. These disclosures were made after the contractual period began and they were only made a single time, not on each occasion that Ms. Hayes was met with a conflict of interest. In response to these disclosures, Ms. Hayes was instructed to keep her public position separate from her private business by, among other things, not using Governor's Office time, employees, records, equipment, or confidential information, to fulfill her private contracts.

- W. When Ms. Hayes was met with potential conflicts of interest related to her paid employment or contractual work as described in paragraphs Q, R, and S, she did not comply with the disclosure and disposition provisions of the conflict of interest law on each occasion she took official actions in her capacity as First Lady or advisor to the Governor, that could or would financially impact herself or her business, as required by ORS 244.120(1)(c). Ms. Hayes's failure to timely notify her appointing authority in writing of the nature of her potential conflicts of interest related to the five organizations which paid her during this time, constituted five (5) violations of ORS 244.120(1)(c). Ms. Hayes maintains that she sought legal advice from the Governor's legal counsel and followed that advice.
- X. Ms. Hayes had the authority as First Lady and advisor to the Governor to select airlines and accommodations when using state funds to travel on official business. Ms. Hayes received a gift of Premier Platinum Status from United Airlines in 2013, following a complaint she lodged with the airlines in her capacity as First Lady. Ms. Hayes maintains that she did not know that she had received Premier Platinum travel status and did not knowingly use the status upgrade.
- Y. ORS 244.025 prohibits a public official from accepting a gift from a single source during a calendar year that exceeds \$50 if the source of the gift has an economic interest in the decision-making of the public official.
- Z. The action described in paragraph X constitutes one violation of ORS 244.025.
- AA. Cylvia Hayes maintains that she did not intentionally use her position as First Lady or unpaid advisor to the Governor to advance the financial interests of herself or her business, 3E Strategies. The Commission made no finding that Cylvia Hayes intentionally used her position as First Lady or unpaid advisor to the Governor to advance her own financial interests or those of her business, 3E Strategies. Such intent is not a necessary element of ORS 244.040(1).

- BB. ORS 244.350 authorizes the Commission to assess civil penalties of up to \$110,000 as a result of the twenty-two (22) violations contained in paragraphs C, D, E, F, G, H, I, J, K, L, M, N, Q, R, S, and X.
- CC. The Commission contends that results of the Commission investigation, if submitted through exhibits and testimony at a contested case hearing, would establish a preponderance of evidence in support of a post-hearing order to find 16 violations of ORS 244.040(1), 5 violations of ORS 244.120(1)(c), and 1 violation of ORS 244.025.

4. TERMS OF SETTLEMENT:

The parties agree as follows:

- A. On 1/5/2018, the Commission moved to make preliminary findings of twenty-two (22) violations of Oregon Government Ethics law after considering information in the investigative phase. Ms. Hayes indicated that she wishes to conclude this matter by not contesting the ultimate violations in this order, without admitting liability.
- B. Ms. Hayes will agree to a civil penalty, as authorized by ORS 244.350, in the amount of \$44,000.00 in order to settle and compromise this matter.
- C. The Commission releases, settles and compromises any and all claims, which have been or could be asserted against Sylvia Hayes within the scope of the above-referenced proceedings.
- D. Sylvia Hayes will initiate no claims, litigation or other action against the Commission as a result of these proceedings.

5. REVIEW BY COUNSEL:

All of the parties hereto acknowledge that this agreement has been entered into by their own free will and with full understanding of the contents herein. Each of the parties further acknowledges that each has had the opportunity to seek the advice of counsel in

comparing and reviewing this agreement.

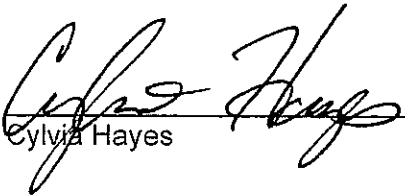
6. EFFECT:

This agreement is subject to the final approval of the Commission. Once approved, this agreement shall be the final disposition of the matter and shall be binding upon all parties.

By signing this agreement, Cylvia Hayes agrees to waive her right to a contested case hearing as provided in ORS Chapter 183 and ORS 244.370. This order shall be the final order and all information in the Commission files on this matter shall become part of the record.

By signing this agreement, Cylvia Hayes agrees to waive her right to obtain judicial review of this order as provided in ORS 183.482.

IN WITNESS WHEREOF, the parties have entered into and signed this final order on the dates set forth below.


Cylvia Hayes

1-18-19
Date

Richard Burke, Chair
Oregon Government Ethics Commission

Date

BEFORE THE OREGON GOVERNMENT ETHICS COMMISSION

In the Matter of)
)
) **STIPULATED FINAL ORDER**
)
 Steve Holm) **CASE NOS. 15-146XDT**
) **15-152XDT**
) **15-162XDT**
 _____)

1. PURPOSE: The purpose of this stipulated final order is to settle any and all claims, allegations and charges by the Oregon Government Ethics Commission (Commission) against Steve Holm.

2. JURISDICTION: At all material times, Mr. Holm was a member of the board of directors for the Lakeside Fire District (district). As the governing body of a public body, the members of the board of directors are subject to the executive session provisions of Oregon Public Meetings law as set forth in ORS 192.660 to ORS 192.685.

3. STIPULATED FACTS:
 - A. On advice of legal counsel, Mr. Holm participated in an executive session held by the board of directors on 1/21/15. The purpose of the executive session was to hold discussions of dismissal or disciplining and review or evaluation of the interim fire chief's employment-related performance, as well as consideration of the employment of an interim fire chief or an interim assistant fire chief.

- B. ORS 192.660(2)(b) allows the governing body of a public body to convene an executive session during a regular, special or emergency meeting, after the presiding officer has identified the statutory authorization or lawful basis for holding the executive session [ORS 192.660(1)], to consider the dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent who does not request an open hearing. The governing body must give sufficient advance notice to the affected person of the purpose of the meeting and the right to choose to conduct it in executive session or open session.
- C. ORS 192.660(2)(i) allows the governing body of a public body to convene an executive session during a regular, special or emergency meeting, after the presiding officer has identified the statutory authorization or lawful basis for holding the executive session [ORS 192.660(1)], to review and evaluate the employment-related performance of the chief executive officer of any public body, a public officer, employee or staff member who does not request an opening hearing. The governing body must provide sufficient advance notice of the purpose of the executive session to the affected person and of his or her right to decide whether to require that the performance evaluation be conducted in open session.
- D. An executive session may be held by the governing body of a public body to consider the employment of interim fire chief or an interim assistant fire chief under ORS 192.660(2)(a), if the requirements of ORS 192.660(7) are completed prior to convening of any executive session. ORS 192.660(7) requires that the public body have advertised the vacancy, adopted regular hiring procedures, provided the public the opportunity to comment on the employment of the officer, or adopted hiring standards, criteria and policy directives in meetings open to the public in which the public had the opportunity to comment on the standards, criteria and policy directives.

- E. Mr. Holm's participation in the 1/21/15 executive session violated the executive session provisions of Oregon Public Meetings law because there was insufficient prerequisite notice provided by the governing body to the interim fire chief in advance of the 1/21/15 executive session and the governing body did not complete the requirements of ORS 192.660(7) prior to convening the 1/21/15 executive session as required.
- F. On advice of legal counsel, Mr. Holm participated in an executive session held by the board of directors on 2/18/15. The purpose of the executive session was to discuss potential dismissal or disciplining of the interim fire chief.
- G. ORS 192.660(2)(b) allows the governing body of a public body to convene an executive session during a regular, special or emergency meeting, after the presiding officer has identified the statutory authorization or lawful basis for holding the executive session [ORS 192.660(1)], to consider the dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent who does not request an open hearing. The governing body must give sufficient advance notice to the affected person of the purpose of the meeting and the right to choose to conduct it in executive session or open session.
- H. Mr. Holm's participation in the 2/18/15 executive session violated the executive session provisions of Oregon Public Meetings law because there was insufficient prerequisite notice provided by the governing body to the interim fire chief in advance of the 2/18/15 executive session.
- I. On advice of legal counsel, Mr. Holm participated in an executive session held by the board of directors on 3/18/15. The purpose of the executive session was to discuss potential dismissal or disciplining of the interim fire chief.

- J. ORS 192.660(2)(b) allows the governing body of a public body to convene an executive session during a regular, special or emergency meeting, after the presiding officer has identified the statutory authorization or lawful basis for holding the executive session [ORS 192.660(1)], to consider the dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent who does not request an open hearing. The governing body must give sufficient advance notice to the affected person of the purpose of the meeting and the right to choose to conduct it in executive session or open session.
- K. Mr. Holm's participation in the 3/18/15 executive session violated the executive session provisions of Oregon Public Meetings law because there was insufficient prerequisite notice provided by the governing body to the interim fire chief in advance of the 3/18/15 executive session.
- L. ORS 244.350(2)(a) authorizes the Commission to assess civil penalties of up to \$1,000 for each violation of ORS 192.660 unless the violation occurred when the governing body was acting on the advice of the public body's legal counsel [ORS 244.350(2)(b)]. Information indicated Mr. Holm was acting on the advice of the public body's legal counsel when the aforementioned violations of ORS 192.660(2) occurred.
- M. The results of the Commission investigation, if submitted through exhibits and testimony at a contested case hearing, would establish a preponderance of evidence in support of a post-hearing order to find violations of ORS 192.660(2).
- N. Steve Holm disagrees with the above conclusions and contends that the results of the investigation, if submitted through exhibits and testimony in a contested case hearing, would not establish a preponderance of evidence in support of any violations of ORS 192.660 because at all times he was

acting on the advice of the District's legal counsel. In order to conclude this matter, however, Mr. Holm agrees to the terms and conditions in this Stipulated Final Order.

4. TERMS OF SETTLEMENT:

The parties agree as follows:

- A. On 12/4/15, the Commission acted to find violation, bring the investigative phase to a close and move to a negotiated settlement or a contested case hearing. This action was a preliminary finding of violations of Oregon Public Meetings law, as a prelude to a stipulated settlement or a contested case hearing, and not a final conclusion regarding violations of Oregon Public Meetings law by Steve Holm.
- B. The Commission is prevented from imposing a civil penalty on Mr. Holm by ORS 244.350(2)(b) because the governing body was acting on advice of the public body's legal counsel when the violations of ORS 192.660(2) occurred. However, Mr. Holm will receive a letter of education, as authorized by ORS 244.350(5), in order to settle and compromise this matter.
- C. The Commission releases, settles and compromises any and all claims, which have been or could be asserted against Mr. Holm within the scope of the above-referenced proceedings.
- D. Mr. Holm will initiate no claims, litigation or other action against the Commission as a result of these proceedings.

5. REVIEW BY COUNSEL:

All of the parties hereto acknowledge that this agreement has been entered into by their own free will and with full understanding of the contents herein. Each of the parties further acknowledges that each has had the opportunity to seek the advice of counsel in comparing and reviewing this agreement.

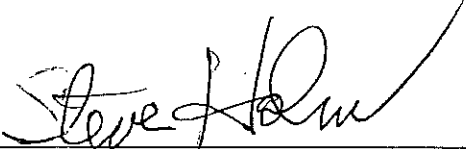
6. EFFECT:

This agreement is subject to the final approval of the Commission. Once approved, this agreement shall be the final disposition of the matter and shall be binding upon all parties.

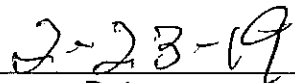
By signing this agreement, Mr. Holm agrees to waive his right to a contested case hearing as provided in ORS Chapter 183 and ORS 244.370. This order shall be the final order and all information in the Commission files on this matter shall become part of the record.

By signing this agreement, Mr. Holm agrees to waive his right to obtain judicial review of this order as provided in ORS 183.482.

IN WITNESS WHEREOF, the parties have entered into and signed this stipulated final order on the dates set forth below.



Steve Holm



Date

Richard P. Burke, Chairperson
Oregon Government Ethics Commission

Date

BEFORE THE OREGON GOVERNMENT ETHICS COMMISSION

In the Matter of)	
)	
)	STIPULATED FINAL ORDER
Steve Holm)	
)	CASE NO. 15-280EDT
)	
_____)	

1. PURPOSE: The purpose of this stipulated final order is to settle any and all claims, allegations and charges by the Oregon Government Ethics Commission (Commission) against Steve Holm.

2. JURISDICTION: At all material times, Steve Holm was a member of the board of directors for the Lakeside Rural Fire Protection District. As such, Mr. Holm was a public official subject to the jurisdiction of the Commission pursuant to ORS Chapter 244.

3. STIPULATED FACTS:

A. In his position as board member of Lakeside Fire District, Steve Holm signed two documents under the advisement of the fire district’s legal counsel. One document, signed along with a majority of other board members on 4/10/15, authorized fire district legal counsel to represent them in any matters involving the Commission. Mr. Holm and other board members also signed individual notices of attorney representation on 5/20/15, which were sent to the Commission to provide notice that fire district legal counsel represented them against complaints in preliminary review and investigation.

- B. Steve Holm, in acting as a board member of the Lakeside Fire District, was met with a conflict of interest in signing the documents described in paragraph (A), which authorized fire district legal counsel to represent him. Mr. Holm did not publicly disclose the nature of his conflict of interest prior to signing these documents.
- C. At the expense of Lakeside Fire District, Mr. Holm was represented by the fire district's legal counsel during portions of preliminary review or investigation in Government Ethics Commission Case Nos. 15-146XDT, 15-152XDT, 15-162XDT, and 15-206XDT.
- D. ORS 244.040(1) prohibits any public official from using their official position or office to obtain financial gain for the public official, other than official salary, honoraria or reimbursement of expenses.
- E. ORS 244.120 requires public officials to disclose conflicts of interest prior to taking official action, which could or would result in financial impact to the public official, a relative of the public official or a business with which the public official or a relative is associated.
- F. The actions described in paragraphs (A) and (C) above constituted a violation of ORS 244.040(1).
- G. The actions described in paragraphs (A) and (B) above constituted a violation of ORS 244.120(2).
- H. ORS 244.350 authorizes the Commission to assess civil penalties of up to \$5,000 per violation.

- I. ORS 244.360 authorizes the Commission to order Mr. Holm to pay a monetary forfeiture of twice the amount of any financial gain Mr. Holm realized as a result of these violations.
- J. The results of the Commission investigation, if submitted through exhibits and testimony at a contested case hearing, would establish a preponderance of evidence in support of a post-hearing order to find violations of ORS 244.040(1) and ORS 244.120(2).
- K. Steve Holm disagrees with the above conclusions and contends that the results of the investigation, if submitted through exhibits and testimony in a contested case hearing, would not establish a preponderance of evidence in support of any violations of ORS 244.040 or 244.120 because at all times he was acting on the advice of the Fire District's legal counsel. In order to conclude this matter, however, Mr. Holm agrees to the terms and conditions in this Stipulated Final Order.

4. TERMS OF SETTLEMENT:

The parties agree as follows:

- A. On 8/12/16, the Commission acted to find violation, bring the investigative phase to a close and move to a negotiated settlement or a contested case hearing. The 8/12/16 action was a preliminary finding of violations of Oregon Government Ethics law, as a prelude to a stipulated settlement or a contested case hearing, and not a final conclusion regarding a violation of Oregon Government Ethics law by Steve Holm.

- B. Mr. Holm was acting in reliance on the public body's legal counsel when the violations occurred and will therefore receive a letter of education, in lieu of the civil penalty authorized by ORS 244.350, in order to settle and compromise this matter.
- C. Mr. Holm will not pay a forfeiture as authorized by ORS 244.360.
- D. The Commission releases, settles and compromises any and all claims, which have been or could be asserted against Mr. Holm within the scope of the above-referenced proceedings.
- E. Mr. Holm will initiate no claims, litigation or other action against the Commission as a result of these proceedings.

5. REVIEW BY COUNSEL:

All of the parties hereto acknowledge that this agreement has been entered into by their own free will and with full understanding of the contents herein. Each of the parties further acknowledges that each has had the opportunity to seek the advice of counsel in comparing and reviewing this agreement.

6. EFFECT:

This agreement is subject to the final approval of the Commission. Once approved, this agreement shall be the final disposition of the matter and shall be binding upon all parties.

By signing this agreement, Steve Holm agrees to waive his right to a contested case hearing as provided in ORS Chapter 183 and ORS 244.370. This order shall be the final order and all information in the Commission files on this matter shall become part of the record.

By signing this agreement, Steve Holm agrees to waive his right to obtain judicial review of this order as provided in ORS 183.482.

IN WITNESS WHEREOF, the parties have entered into and signed this stipulated final order on the dates set forth below.

there is no financial gain??

Steve Holm
Steve Holm

7-28-19
Date

Richard P. Burke, Chairperson
Oregon Government Ethics Commission

Date

*I am reluctantly signing to close
the matter.*

80-12

BEFORE THE OREGON GOVERNMENT ETHICS COMMISSION

In the Matter of)

Robert Donals)

STIPULATED FINAL ORDER

CASE NO. 15-247EDT

1. PURPOSE: The purpose of this stipulated final order is to settle any and all claims, allegations and charges by the Oregon Government Ethics Commission (Commission) against Robert Donals.

2. JURISDICTION: At all material times, Mr. Donals was a volunteer firefighter for the Lakeside Fire District (district). Mr. Donals was a public official subject to the jurisdiction of the Commission pursuant to ORS Chapter 244.

3. STIPULATED FACTS:

A. Mr. Donals used a district vehicle for personal purposes on or about 7/7/15 to remove a trailer frame from a property he was clearing. Mr. Donals indicated, during the relevant time period, he periodically engaged in comparable private income producing activities utilizing his own personal resources.

B. Mr. Donals contends the usage of the district vehicle on or about 7/7/15 was brief, he had permission from district command staff and he submitted funds derived from the recycling of the trailer frame to a fund apparently intended to assist fire victims.

- C. ORS 244.040(1) prohibits any public official from using or attempting to use their official position or office to obtain financial gain or to avoid financial detriment for the public official, a relative or member of the household of the public official, or any business with which the public official or a relative or member of the household is associated, if the financial gain or avoidance of financial detriment would not otherwise be available but for the public official holding the official position or office.
- D. The actions described in paragraph A above constituted a distinct violation of ORS 244.040(1).
- E. ORS 244.350 authorizes the Commission to assess civil penalties of up to \$5,000 as a result of this violation.
- F. The results of the Commission investigation, if submitted through exhibits and testimony at a contested case hearing, would establish a preponderance of evidence in support of a post-hearing order to find violations of ORS 244.040(1).

4. TERMS OF SETTLEMENT:

The parties agree as follows:

- A. On 10/23/15, the Commission acted to find cause to initiate an investigation in this matter. Mr. Donals waived the statutory time limit for investigation to settle this matter by way of a negotiated settlement prior to the completion of the investigative phase. To conclude this matter Mr. Donals agrees to the terms and conditions described in this stipulated final order.

- B. Mr. Donals will receive a letter of education in lieu of a civil penalty as authorized by ORS 244.350(5), in order to settle and compromise this matter.
- C. The Commission releases, settles and compromises any and all claims, which have been or could be asserted against Mr. Donals within the scope of the above-referenced proceedings.
- D. Mr. Donals will initiate no claims, litigation or other action against the Commission as a result of these proceedings.

5. REVIEW BY COUNSEL:

All of the parties hereto acknowledge that this agreement has been entered into by their own free will and with full understanding of the contents herein. Each of the parties further acknowledges that each has had the opportunity to seek the advice of counsel in comparing and reviewing this agreement.


6. EFFECT:

This agreement is subject to the final approval of the Commission. Once approved, this agreement shall be the final disposition of the matter and shall be binding upon all parties.

By signing this agreement, Mr. Donals agrees to waive his right to a contested case hearing as provided in ORS Chapter 183 and ORS 244.370. This order shall be the final order and all information in the Commission files on this matter shall become part of the record.

By signing this agreement, Mr. Donals agrees to waive his right to obtain judicial review of this order as provided in ORS 183.482.

IN WITNESS WHEREOF, the parties have entered into and signed this stipulated final order on the dates set forth below.


Robert Donals

1-28-2019
Date

Richard Burke, Chairperson
Oregon Government Ethics Commission

Date

MEMORANDUM

DATE: February 11, 2019

TO: Oregon Government Ethics Commission

FROM: Susan Myers SM
Investigator

SUBJECT: Case Summary

RE: Respondent: Robert Donals
Case No: 15-247EDT

As requested at a previous meeting, we are providing a brief written summary of case information for Stipulations in some of the older cases.

In 2015, the Commission received a number of complaints involving various parties at the Lakeside Fire District (District). This particular case involved alleged ethics violations by Robert Donals, who was a volunteer firefighter with the District.

The complaint alleged that Mr. Donals, on his private time, was being paid \$800 to tear down and haul away an old trailer. In the process of completing this job, Mr. Donals used a District vehicle, known as a deuce and a half truck, to haul the bottom of the trailer to the recyclers. Commission staff was provided with eyewitness testimony and photographs of the District's truck being used in this manner by Mr. Donals.

According to Mr. Donals, he was going to donate the money from the job to a Fire Victims' Fund that the District had started for victims of house fires. He stated that he had asked the Chief if he could use the truck and was told it was fine.

On October 23, 2015, the Commission considered the Preliminary Review Report and opened an investigation. In March 2016, Mr. Donals requested a waiver of time in order to negotiate a Stipulated Final Order. Unfortunately, following this request, Commission staff lost contact with Mr. Donals. In early January 2019, we were able to re-establish communication with Mr. Donals and completed negotiations for the Stipulated Final Order that is in your meeting books.

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BEFORE THE OREGON GOVERNMENT ETHICS COMMISSION

In the Matter of)

Doug Breidenthal)
_____)

STIPULATED FINAL ORDER

CASE NO. 15-272EDT

CASE NO. 17-135EMT

1. PURPOSE: The purpose of this stipulated final order is to settle any and all claims, allegations and charges by the Oregon Government Ethics Commission (Commission) in the above referenced cases against Doug Breidenthal.
2. JURISDICTION: At all material times, Doug Breidenthal was an elected Commissioner on the Board of Commissioners for Jackson County. Doug Breidenthal was a public official subject to the jurisdiction of the Commission pursuant to ORS Chapter 244.
3. FACTS AS ALLEGED:
 - A. In 2014, Doug Breidenthal, using his position as a County Commissioner, solicited monies for the purpose of funding his campaign for a leadership position in the Western Interstate Region of the National Association of Counties. This leadership position is not a public office, as defined in ORS 260.005, and the monies Doug Breidenthal solicited are gifts, as defined in ORS 244.020(7).
 - B. The sources from whom Doug Breidenthal solicited these monies were persons or entities which could reasonably be known to have a legislative or administrative interest in matters before the Jackson County Board of Commissioners.

- C. Between March and May 2014, in response to his solicitations, Doug Breidenthal received eleven (11) gifts, each ranging in value from \$500 to \$2,000. The total value of these gifts was \$10,500.00.
- D. ORS 244.025(1) prohibits any public official from soliciting or receiving, directly or indirectly, gifts with an aggregate value in excess of \$50 during a calendar year from any single source that could reasonably be known to have a legislative or administrative interest.
- E. ORS 244.040(1) prohibits any public official from using their official position or office to obtain financial gain for the public official, other than official salary, honoraria or reimbursement of expenses.
- F. Each of the actions described in paragraphs 3(A), 3(B) and 3(C), above, constitutes a distinct violation of ORS 244.025(1) and ORS 244.040(1).
- G. Doug Breidenthal contends that he was not aware the solicited monies were defined as gifts and his actions were taken with the assistance of the Association of Oregon Counties (AOC), which mentored him through the process and set up the bank account for receipt of the monies. Doug Breidenthal further contends that the monies collected were deposited into the AOC bank account and used to fund his campaign for the leadership position in the Western Interstate Region.
- H. Doug Breidenthal was a public official required by ORS 244.050(1)(j) to file a Statement of Economic Interest. ORS 244.060(8) requires that in the Statement of Economic Interest, the public official identify the name, principal address and brief description of each source of income exceeding an aggregate amount of \$1,000 received by the public official during the preceding calendar year if that source has a legislative or administrative interest in the jurisdiction served by the public official.

- I. Seven (7) of the gifts identified in paragraph 3(C) were in excess of \$1,000.00. The 2015 Statement of Economic Interest filed by Doug Breidenthal failed to identify these gifts or his receipt of income in excess of \$1,000 from these sources during the preceding calendar year.
- J. Each of the actions described in paragraph 3(H) constitutes a distinct violation of ORS 244.060(8).
- K. In 2016, Doug Breidenthal entered into a business arrangement with a constituent to engage in the recreational marijuana business. The location of the planned recreational marijuana dispensary was in Medford, a city located within Jackson County.
- L. During at least three (3) public meetings, Doug Breidenthal, acting in his official position as a County Commissioner, participated in discussions relating to the recreational marijuana business in Jackson County. Doug Breidenthal did not disclose his potential conflict of interest prior to participating in these discussions.
- M. ORS 244.120(2)(a) requires public officials to publicly disclose potential conflicts of interest prior to taking any official action which could result in financial impact to the public official, a relative of the public official or a business with which the public official or a relative is associated.
- N. Each of the actions described in paragraphs 3(K) and 3(L) constitute a distinct violation of ORS 244.040(1) and ORS 244.120(2).
- O. Doug Breidenthal contends that any actions he took in his official position as a County Commissioner occurred prior to his entry into the marijuana business and therefore there was no need for him to disclose a conflict of interest.

- P. ORS 244.350 authorizes the Commission to assess civil penalties of up to \$25,000.00 as a result of the violations set forth in paragraphs 3(F), 3(J), and 3(N).
- Q. ORS 244.360 authorizes the Commission to order Doug Breidenthal to pay a monetary forfeiture equal to twice the amount of financial gain Doug Breidenthal realized as a result of these violations.
- R. The Commission contends that results of the investigation, if submitted through exhibits and testimony at a contested case hearing, would establish a preponderance of evidence in support of a post-hearing order to find violations of ORS 244.025(1), 244.040(1), 244.060(8) and ORS 244.120(2).
- S. Doug Breidenthal disagrees with the above conclusions and contends that the results of the investigation, if submitted through exhibits and testimony in a hearing, would not establish a preponderance of evidence in support of violations of ORS 244.025(1), 244.040(1), 244.060(8) or 244.120(2). In order to conclude this matter, however, Mr. Breidenthal agrees to the terms and conditions in this Stipulated Final Order.

4. TERMS OF SETTLEMENT:

The parties agree as follows:

- A. On January 15, 2016, the Commission considered information in the preliminary review phase of Case No. 15-272EDT and acted to find cause to initiate an investigation of this matter. Doug Breidenthal has indicated that he wishes to conclude this matter by agreeing to the terms and conditions in this order without completing the investigative phase.

- B. On April 21, 2017, the Commission considered information in the preliminary review phase of Case No. 17-135EMT and acted to find cause to initiate an investigation of this matter. Doug Breidenthal has indicated that he wishes to conclude this matter by agreeing to the terms and conditions in this order without completing the investigative phase.
- C. Doug Breidenthal will pay a civil penalty, as authorized by ORS 244.350, in the amount of \$2,500.00 in order to settle and compromise these matters.
- D. The civil penalty in paragraph 4(C), above, will be paid at a monthly rate of \$200.00 for a period of 12 months, with a final payment of \$100.00 in the 13th month. The payments will be due on or before the 20th day of each month, with the first payment being due on April 20, 2019. The last payment becomes due on May 20, 2020. All payments will be interest free. If a payment becomes 10 days or more delinquent, the entire balance will be assigned to the Oregon Department of Revenue for collection.
- E. By entering into this Stipulated Final Order, Doug Breidenthal will not pay a forfeiture, as authorized by ORS 244.360.
- F. The Commission releases, settles and compromises any and all claims, which have been or could be asserted against Doug Breidenthal within the scope of the above-referenced proceedings.
- G. Doug Breidenthal will initiate no claims, litigation or other action against the Commission as a result of these proceedings.

5. REVIEW BY COUNSEL:

All of the parties hereto acknowledge that this agreement has been entered into by their own free will and with full understanding of the contents herein. Each of the parties further acknowledges that each has had the opportunity to seek the advice of counsel in comparing and reviewing this agreement.

6. EFFECT:

This agreement is subject to the final approval of the Commission. Once approved, this agreement shall be the final disposition of the matter and shall be binding upon all parties.

By signing this agreement, Doug Breidenthal agrees to waive his right to a contested case hearing as provided in ORS Chapter 183 and ORS 244.370. This order shall be the final order and all information in the Commission files on this matter shall become part of the record.

By signing this agreement, Doug Breidenthal agrees to waive his right to obtain judicial review of this order as provided in ORS 183.482.

IN WITNESS WHEREOF, the parties have entered into and signed this stipulated final order on the dates set forth below.



Doug Breidenthal

2-25-2019

Date

Richard P. Burke, Chairperson
Oregon Government Ethics Commission


Date

Doug Breidenthal STIPULATED FINAL ORDER - Page 6

MEMORANDUM

DATE: February 27, 2019

TO: Oregon Government Ethics Commission

FROM: Susan Myers 
Investigator

SUBJECT: Case Summary

RE: Respondent: Doug Breidenthal
Case Nos: 15-272EDT and 17-135EMT

Case No. 15-272EDT

In October 2015, the Commission opened a Preliminary Review following receipt of a complaint from Jackson County Auditor Eric Spivak. The complaint alleged that former County Commissioner Doug Breidenthal had solicited and received gifts (monetary contributions) from various entities with legislative or administrative interests before the Jackson County Board of Commissioners.

The monies, totaling \$10,500, were deposited into a bank account opened by the Association of Oregon Counties (AOC) to be used to fund a campaign for a leadership position in the Western Interstate Region (WIR), an association within the National Association of Counties. While the AOC opened the account, Doug Breidenthal had the account's debit card and retained control over the funds. Some, but not all, of the monies were spent on the WIR campaign; however, a position in the WIR is not a public office, as defined in ORS 260.005. Because these monies did not meet the criteria for any of the statutory exemptions, they were gifts from sources with administrative or legislative interests.

In November 2015, the Commission moved this matter to investigation; however, the investigation was suspended while the Oregon Department of Justice (DOJ) completed its investigation. In March 2017, the DOJ issued a letter declining prosecution. With respect to control over the monies, the DOJ letter states that "evidence supports a conclusion that Mr. Breidenthal retained ownership of the funds to use at his discretion." Indeed, in October 2017, Doug Breidenthal used his debit card to withdraw the remaining funds from the account.

In March 2017, the investigation was restarted. In June 2017, Doug Breidenthal, through his attorney, requested a waiver of time in order to negotiate a Stipulated Final Order for this matter and the following matter.

Case No. 17-135EMT

In March 2017, the Commission received a second complaint from Auditor Eric Spivak. This second complaint alleged that Doug Breidenthal failed to disclose conflicts of interest arising from his business relationship with Greg Allen.

Greg Allen was operating a medical marijuana dispensary in Jackson County, which had received a code enforcement citation. In the fall of 2016, Mr. Allen and Doug Breidenthal entered into a business relationship with the intent of opening a recreational marijuana dispensary. Mr. Breidenthal's term as a County Commissioner was ending in December 2016. Mr. Spivak provided video evidence of Doug Breidenthal receiving cash payments from Mr. Allen in November and December 2016. Mr. Allen allegedly provided Doug Breidenthal with over \$45,000 in cash as well as inventory and supplies. In November 2016, Doug Breidenthal also received a \$150,000 investment from Mr. and Mrs. Nelson; a couple in Prescott, Arizona. The business relationships between these parties eventually soured, and a private lawsuit was initiated in February 2017. That lawsuit was apparently resolved with a confidential settlement agreement.

On September 23, 2016, Doug Breidenthal incorporated a business called Capital Pacific Advisers. According to Mr. Breidenthal, this business was formed to provide advice to small businesses, potentially including marijuana businesses. On November 9, 2016, Doug Breidenthal formed Marigold Enterprises and submitted a license application to the OLCC. Marigold Enterprises is a recreational marijuana dispensary doing business in Medford.

Following Doug Breidenthal's incorporation of Capital Pacific Advisers, but before he formed Marigold Enterprises, he participated in two public meetings and one staff meeting where issues arose involving marijuana. In one public meeting, the Board of Commissioners voted on an ordinance to tax recreational marijuana. In the other meetings, the Board discussed marijuana code enforcement and the case involving Mr. Allen's medical marijuana dispensary. Mr. Breidenthal did not disclose any actual or potential conflicts of interest in these meetings. All three of these meetings occurred before November 9th, when Mr. Breidenthal formed Marigold Enterprises.

In April 2017, the Commission moved this matter to investigation. As indicated above, in June 2017, Mr. Breidenthal requested a waiver of time in order to negotiate a Stipulated Final Order for both of these matters. Negotiations were stalled due to staff turnover, but were re-started in the fall of 2018. The Stipulated Final Order that is in your meeting books resolves both cases.

BEFORE THE OREGON GOVERNMENT ETHICS COMMISSION

In the Matter of)
)
Deena Symons)
(also known as Deena Goss))
_____)

STIPULATED FINAL ORDER
CASE NO. 16-115EMS

1. PURPOSE: The purpose of this stipulated final order is to settle any and all claims, allegations and charges by the Oregon Government Ethics Commission (Commission) against Deena Symons (formerly known as Deena Goss).
2. JURISDICTION: At all material times, Deena Symons was the elected Treasurer in Jefferson County (County). Ms. Symons was a public official subject to the jurisdiction of the Commission pursuant to ORS Chapter 244.
3. STIPULATED FACTS:
 - A. On fourteen occasions between August 2013 and February 2014, Deena Symons used her position as County Treasurer to obtain personal financial gain by altering the amounts written on checks submitted to the County or by entering incorrect amounts on deposit slips and then withdrawing the equivalent amounts from the cash deposits she was making on behalf of the County.
 - B. Ms. Symons obtained \$315.00 in personal financial benefit as a result of the actions described in paragraph 3(A).
 - C. On February 26, 2016, on its own motion, the Commission opened a Preliminary Review based on news reports that Jefferson County Treasurer Deena Symons had been charged with and convicted of forgery, theft, and official misconduct for those actions described in paragraph 3(A).

- D. As a result of her criminal conviction, Ms. Symons served 75 days in jail and 18 months of probation. She also resigned her position as County Treasurer and paid restitution in the amount of \$315.00.
- E. Although she served her time and paid restitution, Deena Symons is still contesting her conviction through the appeals process.
- F. ORS 244.040(1) prohibits any public official from using their official position or office to obtain financial gain for the public official, other than official salary, honoraria or reimbursement of expenses, or to avoid financial detriment for the public official.
- G. The actions described in paragraph 3(A) constitute a violation of ORS 244.040(1).
- H. ORS 244.350 authorizes the Commission to assess civil penalties of up to \$5,000 per violation.
- I. The results of the Commission investigation, if submitted through exhibits and testimony at a contested case hearing, would establish a preponderance of evidence in support of a post-hearing order to find violations of ORS 244.040(1).
- J. Deena Symons disagrees with the above conclusions and contends that the results of the investigation, if submitted through exhibits and testimony in a hearing, would not establish a preponderance of evidence in support of a violation of ORS 244.040(1). In order to conclude this matter, however, Ms. Symons agrees to the terms and conditions in this Stipulated Final Order.

4. TERMS OF SETTLEMENT:

The parties agree as follows:

- A. On April 8, 2016, on its own motion, the Commission considered information in the preliminary review phase and acted to find cause to initiate an investigation of this matter. Deena Symons has indicated that she wishes to conclude this matter by agreeing to the terms and conditions in this order without completing the investigative phase.
- B. Deena Symons will pay a civil penalty, as authorized by ORS 244.350, in the amount of \$315.00 in order to settle and compromise this matter.
- C. The Commission releases, settles and compromises any and all claims, which have been or could be asserted against Deena Symons within the scope of the above-referenced proceedings.
- D. Deena Symons will initiate no claims, litigation or other action against the Commission as a result of these proceedings.

5. REVIEW BY COUNSEL:

All of the parties hereto acknowledge that this agreement has been entered into by their own free will and with full understanding of the contents herein. Each of the parties further acknowledges that each has had the opportunity to seek the advice of counsel in comparing and reviewing this agreement.

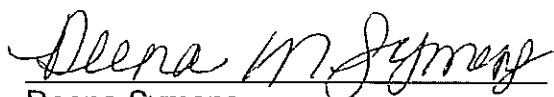
6. EFFECT:


This agreement is subject to the final approval of the Commission. Once approved, this agreement shall be the final disposition of the matter and shall be binding upon all parties.

By signing this agreement, Deena Symons agrees to waive her right to a contested case hearing as provided in ORS Chapter 183 and ORS 244.370. This order shall be the final order and all information in the Commission files on this matter shall become part of the record.

By signing this agreement, Deena Symons agrees to waive her right to obtain judicial review of this order as provided in ORS 183.482.

IN WITNESS WHEREOF, the parties have entered into and signed this stipulated final order on the dates set forth below.


Deena Symons


Date

Richard P. Burke, Chairperson
Oregon Government Ethics Commission

Date

MEMORANDUM

DATE: February 19, 2019

TO: Oregon Government Ethics Commission

FROM: Susan Myers *SM*
Investigator

SUBJECT: Case Summary

RE: Respondent: Deena Symons (Goss)
Case No: 16-115EMT

As requested at a previous meeting, we are providing a brief written summary of case information for stipulations in some of the older cases.

In January 2016, the Commission, on its own motion, opened a Preliminary Review in this matter following media reports of the criminal conviction of Jefferson County Treasurer Deena Goss (now known as Deena Symons).

Deena Goss was the elected County Treasurer. An investigation revealed that between August 2013 and February 2014, suspicious activity involving County deposits occurred and Ms. Goss was the only person with access to all of those deposits. The investigation indicated that on fourteen occasions, the amounts written on checks were altered or incorrect amounts were entered on deposit slips, with the equivalent amount of cash withheld from the cash deposits. The fourteen incidents identified in the investigation resulted in \$315 in financial benefit.

In December 2015, Ms. Goss was charged and convicted of one count of first-degree forgery, seven counts of second-degree forgery, and 14 counts each of third-degree theft and first-degree official misconduct. She was sentenced to 75 days in jail and 8 months of probation. She also paid \$315 in restitution. Although Ms. Goss served her time in jail and probation, and paid her restitution, she is still attempting to appeal her conviction.

In April 2016, the Commission moved this matter to investigation. In July 2016, Ms. Goss requested a waiver of time in order to negotiate a Stipulated Final Order. Because of staff turnover, and through no fault of Ms. Goss, negotiations were stalled until January 2019. At that point, we were able to complete negotiations for the Stipulated Final Order that is in your meeting books.

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BEFORE THE OREGON GOVERNMENT ETHICS COMMISSION

In the Matter of)
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Taner Elliott)
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)
_____)

STIPULATED FINAL ORDER

CASE NO. 16-147EDG

1. PURPOSE: The purpose of this stipulated final order is to settle any and all claims, allegations and charges by the Oregon Government Ethics Commission (Commission) in the above cited case against Taner Elliott.

2. JURISDICTION: At all material times, Taner Elliott was a City Councilor for the City of The Dalles. Taner Elliott was a public official subject to the jurisdiction of the Commission pursuant to ORS Chapter 244.

3. STIPULATED FACTS:
 - A. Taner Elliott was an owner and manager of Elk Horn Development, LLC, (Elk Horn) a property development company, when he became a city councilor on 1/12/15. During this period, Elk Horn owned, and was in the process of developing four vacant, single family, residential lots that had frontage on Thompson Street and East 15th in The Dalles.

 - B. On 1/26/15, The Dalles City Council held a public hearing to consider new development guidelines proposed by the Planning Commission that would apply only to single family, residential lots that were not part of a subdivision. The public hearing was followed by a city council discussion of these guidelines. In his capacity as a city councilor, Taner Elliott participated in these discussions and did not announce that he had a conflict of interest. On 4/13/15, The Dalles City Council considered the formal adoption of the new development guidelines as Resolution 15-017. In his capacity as a city

councilor, Taner Elliott discussed, voted to amend, and voted to adopt Resolution 15-017, without announcing he had a conflict of interest.

- C. Taner Elliott requested that the City construct a street abutting his undeveloped property where one had been platted, but never constructed. In its 8/27/15 written denial of the request, the City notified Mr. Elliott that he was able to construct the street at his own cost, but the City had a three-year moratorium on building new streets, and Resolution 15-017 did not obligate the City to construct the street. Mr. Elliott worked with the Public Works Director (Director) to apply, in a unique fashion, both the City's Gravel Street Policy and the City's Corner Lot Relief Policy to the street construction. If approved, the street construction would cost Mr. Elliott's company \$5540 and the City \$11,126. The Director did not have authority to grant approval himself and it was placed on the City Council's agenda for the 10/26/15 meeting. Following the Director's presentation of Elk Horn's proposal to the City Council, Councilor Elliott announced that he was removing himself from the ensuing discussion because he was part of Elk Horn Development. The City Council approved the proposal on 10/26/15.
- D. Following Mr. Elliott's receipt of the complaint in this matter, he contacted the City Attorney, a full-time employee of The Dalles, at which time the City Attorney filed a notice of representation with the Commission, and copied Mr. Elliott on that letter as well as all subsequent correspondence he had with the Commission on Mr. Elliott's behalf. Mr. Elliott contends that he did not request personal legal services from the City Attorney.
- E. ORS 244.120 requires public officials to disclose conflicts of interest prior to taking official action which could or would result in financial impact to the public official, a relative of the public official or a business with which the public official or a relative is associated.

- F. The actions described in paragraph B above constituted 2 violations of ORS 244.120(2). The results of the Commission investigation, if submitted through exhibits and testimony at a contested case hearing, would establish a preponderance of evidence in support of a post-hearing order to find violations of ORS 244.120(2).

- G. ORS 244.040(1) prohibits any public official from using or attempting to use their official position or office to obtain financial gain or avoid a financial detriment for themselves, or a business with which they are associated, if the financial gain would not otherwise be available but for holding their official position. This provision applies regardless of whether a public official discloses a conflict of interest.

- H. The Commission contends that the actions described in paragraphs C and D above constituted 2 violations of ORS 244.040(1), and that the results of the Commission investigation, if submitted through exhibits and testimony at a contested case hearing, would establish a preponderance of evidence in support of a post-hearing order to find violation of ORS 244.040(1).

- I. Mr. Elliott contends that the actions described in paragraphs C and D above did not constitute violations of ORS 244.040(1). Mr. Elliott further contends that the results of the Commission investigation, if submitted through exhibits and testimony at a contested case hearing, would fail to establish a preponderance of evidence in support of a post-hearing order to find violation of ORS 244.040(1).

- J. ORS 244.350 authorizes the Commission to assess civil penalties of up to \$5,000 per violation.

4. TERMS OF SETTLEMENT:

The parties agree as follows:

- A. On 6/2/17, the Commission acted to find violation, bring the investigative phase to a close and move to a negotiated settlement or a contested case hearing. The 6/2/17 action was a preliminary finding of violations of Oregon Government Ethics law, as a prelude to a stipulated settlement or a contested case hearing, and not a final conclusion regarding a violation of Oregon Government Ethics law by Taner Elliott.
- B. Mr. Elliott disagrees with some of the Commission's findings. However, in order to conclude this matter, Mr. Elliott agrees to the terms and conditions described in this stipulated final order.
- C. In lieu of a civil penalty, as authorized by ORS 244.350, Mr. Tanner will receive a letter of education and request and complete an online ethics training from the Commission's training staff within 30 days of the final execution of this order.
- D. The Commission releases, settles and compromises any and all claims, which have been or could be asserted against Taner Elliott within the scope of the above-referenced proceedings.
- E. Taner Elliott will initiate no claims, litigation or other action against the Commission as a result of these proceedings.

5. REVIEW BY COUNSEL:

All of the parties hereto acknowledge that this agreement has been entered into by their own free will and with full understanding of the contents herein. Each of

the parties further acknowledges that each has had the opportunity to seek the advice of counsel in comparing and reviewing this agreement.

6. EFFECT:

This agreement is subject to the final approval of the Commission. Once approved, this agreement shall be the final disposition of the matter and shall be binding upon all parties.


By signing this agreement, Taner Elliott agrees to waive his right to a contested case hearing as provided in ORS Chapter 183 and ORS 244.370. This order shall be the final order and all information in the Commission files on this matter shall become part of the record.

By signing this agreement, Taner Elliott agrees to waive his right to obtain judicial review of this order as provided in ORS 183.482.

IN WITNESS WHEREOF, the parties have entered into and signed this stipulated final order on the dates set forth below.



Taner Elliott



Date

Richard P. Burke, Chairperson
Oregon Government Ethics Commission

Date

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BEFORE THE OREGON GOVERNMENT ETHICS COMMISSION

In the Matter of

Linda Hald

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STIPULATED FINAL ORDER

CASE NO. 16-151EDG

1. **PURPOSE:** The purpose of this stipulated final order is to settle any and all claims, allegations and charges by the Oregon Government Ethics Commission (Commission) against Linda Hald.

2. **JURISDICTION:** At all material times, Linda Hald was a Community Justice Department Office Manager for Columbia County. Linda Hald was a public official subject to the jurisdiction of the Commission pursuant to ORS Chapter 244.

3. **STIPULATED FACTS:**
 - A. Linda Hald retired from her position with Columbia County on 6/30/15, after 30 years. As Office Manager of the Community Justice Department, Ms. Hald received payments from clients for services such as electronic monitoring, drug tests, and supervision, provided receipts to the clients, and reconciled and remitted those revenues to the treasury on a monthly basis. The County retained a forensic accounting firm to conduct an investigation of the Community Justice Department after a large increase in cash receipts was noticed following Ms. Hald's retirement. The auditors concluded that Ms. Hald had been diverting the County's cash receipts to herself for several years and covering up by altering Community Justice Department records. The auditors found evidence of the discrepancies as far back as 1999, but the Commission only has authority to investigate conduct that occurred four years prior to the opening of this case on 12/16/16.

 - B. As a result of the forensic audit and the state police investigation, Ms. Hald became the subject of a criminal investigation. She was indicted by a Columbia County

grand jury on 10/20/16 on multiple charges of theft, tampering with public records, and official misconduct that occurred between 2010 and Ms. Hald's retirement. On 3/7/18, Linda Hald pled guilty to one charge of aggravated theft and all other charges were dropped. On 7/10/18, Ms. Hald was sentenced to incarceration for a term of 30 months and post-prison supervision for two years. She was also ordered by the court to pay fines and restitution in the amount of \$95,000 to Columbia County.

- C. ORS 244.040(1) prohibits any public official from using their official position or office to obtain financial gain for the public official, other than official salary, honoraria or reimbursement of expenses.
- D. The actions described in paragraph (A) above constituted violations of ORS 244.040(1).
- E. ORS 244.120 requires public officials to disclose conflicts of interest prior to taking official action, which could or would result in financial impact to the public official, a relative of the public official or a business with which the public official or a relative is associated.
- F. Linda Hald did not disclose a conflict of interest prior to taking the actions described in paragraph (A).
- G. ORS 244.350 authorizes the Commission to assess civil penalties of up to \$5,000 for each of these violations.
- H. ORS 244.360 authorizes the Commission to order respondent to pay a monetary forfeiture in the amount of twice the amount of financial gain realized as a result of these violations.
- I. The results of the Commission investigation, if submitted through exhibits and testimony at a contested case hearing, would establish a preponderance of evidence in support of a post-hearing order to find violations of ORS 244.040(1) and ORS 244.120(1)(c).

8/11

4. TERMS OF SETTLEMENT:

The parties agree as follows:

- A. On 1/27/17, the Commission considered information in the preliminary review phase and acted to find cause to initiate an investigation of these matters. The investigation was suspended due to the ongoing criminal matters, which concluded with the sentencing on 7/10/18. Linda Hald, through her attorney, has indicated that she wishes to conclude this matter by agreeing to the terms and conditions in this order without completing the investigative phase.
- B. Linda Hald will pay a civil penalty, as authorized by ORS 244.350, in the amount of \$4,000 in order to settle and compromise this matter.
- C. Linda Hald will not pay a forfeiture, as authorized by ORS 244.360, because she is under court order to pay fines and restitution to the victim.
- D. The civil penalty in item B above will be paid over thirteen months, at a monthly rate of \$300 for a period of twelve months and \$400 for the thirteenth month. The payments will be due on or before the 10th day of each month with the first payment being due on the 10th day of the month following the date this order is fully executed. All payments will be interest free. If a payment becomes 10 days or more delinquent, the entire balance will be assigned to the Oregon Department of Revenue for collection.
- E. The Commission releases, settles and compromises any and all claims, which have been or could be asserted against Linda Hald within the scope of the above-referenced proceedings.
- F. Linda Hald will initiate no claims, litigation or other action against the Commission as a result of these proceedings.

5. REVIEW BY COUNSEL:

All of the parties hereto acknowledge that this agreement has been entered into by their own free will and with full understanding of the contents herein. Each of the parties further acknowledges that each has had the opportunity to seek the advice of counsel in comparing and reviewing this agreement.

6. EFFECT:

This agreement is subject to the final approval of the Commission. Once approved, this agreement shall be the final disposition of the matter and shall be binding upon all parties.

By signing this agreement, Linda Hald agrees to waive her right to a contested case hearing as provided in ORS Chapter 183 and ORS 244.370. This order shall be the final order and all information in the Commission files on this matter shall become part of the record.

By signing this agreement, Linda Hald agrees to waive her right to obtain judicial review of this order as provided in ORS 183.482.

IN WITNESS WHEREOF, the parties have entered into and signed this stipulated final order on the dates set forth below.

Linda Hald
Linda Hald

02/15/19
Date

Richard P. Burke, Chairperson
Oregon Government Ethics Commission

Date

RFH

BEFORE THE OREGON GOVERNMENT ETHICS COMMISSION

In the Matter of)
)
)
Leonard Flint)
)
)
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_____)

STIPULATED FINAL ORDER
CASE NO. 17-073XMT

1. **PURPOSE:** The purpose of this stipulated final order is to settle any and all claims, allegations and charges by the Oregon Government Ethics Commission (Commission) against Leonard Flint.

2. **JURISDICTION:** At all material times, Leonard Flint was the mayor of the city of Union and a member of the city council. As the governing body of a public body, the mayor and city council members are subject to the executive session provisions of Oregon Public meetings law as set forth in ORS 192.660 and ORS 192.685.

3. **FACTS AS ALLEGED:**
 - A. Leonard Flint participated in an executive session held by the Union city council on June 15, 2017. The provisions cited as authority for the executive session were ORS 192.660(2)(a), 192.660(2)(f) and 192.660(2)(h).

 - B. ORS 192.660(2)(a) permits the governing body of a public body to hold an executive session to consider the employment of a public officer, employee, staff member or individual agent. The topic of employment compensation, including salaries and benefits, is explicitly prohibited from discussion or negotiation during an executive session. [OAR 199-040-0020].

- C. ORS 192.660(2)(f) permits the governing body of a public body to hold an executive session to consider information or records that are exempt by law from public inspection.
- D. ORS 192.660(2)(h) permits the governing body of a public body to hold an executive session to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed. In order to meet the requirements for holding an executive session under ORS 192.660(2)(h), the attorney with whom the governing body is consulting must be present, either in person, by telephone, or by other concurrent means of communication. [OAR 199-040-0050].
- E. The discussion in the city council's June 15, 2017 executive session concerned the resignation of a city employee and the salary and benefits to be paid as severance to that employee. The city council did not consider a record exempt by law from public disclosure and did not have an attorney present during the executive session.
- F. Discussion of the resignation of a city employee and the severance package to be offered to that employee is not a topic authorized for discussion in an executive session under ORS 192.660(2)(a), 192.660(2)(f) or 192.660(h).
- G. The actions set forth in paragraph 3(E) constitute one violation of ORS 192.660.
- H. ORS 244.350 authorizes the Commission to assess civil penalties of up to \$1000 as a result of this violation.

- I. The results of the Commission investigation, if submitted through exhibits and testimony at a contested case hearing, would establish a preponderance of evidence in support of a post-hearing order to find a violation of ORS 192.660(2).

4. TERMS OF SETTLEMENT:

The parties agree as follows:

- A. On November 17, 2017, the Commission considered information in the preliminary review phase and acted to find cause to initiate an investigation of this matter. Leonard Flint has indicated that he wishes to conclude this matter by agreeing to the terms and conditions in this order without completing the investigative phase.
- B. Leonard Flint will receive a letter of education, as authorized by ORS 244.350, in order to settle and compromise this matter.
- C. The Commission releases, settles and compromises any and all claims, which have been or could be asserted against Leonard Flint within the scope of the above-referenced proceedings.
- D. Leonard Flint will initiate no claims, litigation or other action against the Commission as a result of these proceedings.

5. REVIEW BY COUNSEL:

All of the parties hereto acknowledge that this agreement has been entered into by their own free will and with full understanding of the contents herein. Each of the parties further acknowledges that each has had the opportunity to seek the advice of counsel in comparing and reviewing this agreement.

6. EFFECT:

This agreement is subject to the final approval of the Commission. Once approved, this agreement shall be the final disposition of the matter and shall be binding upon all parties.

By signing this agreement, Leonard Flint agrees to waive his right to a contested case hearing as provided in ORS Chapter 183 and ORS 244.370. This order shall be the final order and all information in the Commission files on this matter shall become part of the record.

By signing this agreement, Leonard Flint agrees to waive his right to obtain judicial review of this order as provided in ORS 183.482.

IN WITNESS WHEREOF, the parties have entered into and signed this stipulated final order on the dates set forth below.



Leonard Flint



Date

Richard Burke, Chairperson
Oregon Government Ethics Commission

Date

BEFORE THE OREGON GOVERNMENT ETHICS COMMISSION

In the Matter of)
)
)
Randy Knop)
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)
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_____)

STIPULATED FINAL ORDER
CASE NO. 17-075XMT

1. **PURPOSE:** The purpose of this stipulated final order is to settle any and all claims, allegations and charges by the Oregon Government Ethics Commission (Commission) against Randy Knop.

2. **JURISDICTION:** At all material times, Randy Knop was a member of the city council for the City of Union. As the governing body of a public body, the members of the city council are subject to the executive session provisions of Oregon Public meetings law as set forth in ORS 192.660 and ORS 192.685.

3. **FACTS AS ALLEGED:**
 - A. Randy Knop participated in an executive session held by the Union city council on June 12, 2017. The provisions cited as authority for the executive session were ORS 192.660(2)(a) and 192.660(2)(f).

 - B. Randy Knop participated in an executive session held by the Union city council on June 15, 2017. The provisions cited as authority for this executive session were ORS 192.660(2)(a), 192.660(2)(f) and 192.660(2)(h).

 - C. ORS 192.660(2)(a) permits the governing body of a public body to hold an executive session to consider the employment of a public officer, employee, staff member or individual agent. The topic of employment compensation,

including salaries and benefits, is explicitly prohibited from discussion or negotiation during an executive session. [OAR 199-040-0020].

- D. ORS 192.660(2)(f) permits the governing body of a public body to hold an executive session to consider information or records that are exempt by law from public inspection.
- E. ORS 192.660(2)(h) permits the governing body of a public body to hold an executive session to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed. To meet the requirements for holding an executive session under this provision, the attorney with whom the governing body is consulting must be present, either in person, by telephone, or by other concurrent means of communication. [OAR 199-040-0050].
- F. The announced purpose of the Union city council's June 12, 2017 executive session was to discuss hiring the former fire chief as an interim fire chief. In the executive session, the city council did not consider a record exempt by law from public disclosure.
- G. During the executive session on June 12, 2017, the city council digressed from the announced topic of hiring an interim fire chief and instead discussed several other topics, including but not limited to the job performance of the city administrator, equipment bids and inventory lists, and contract negotiations with another fire district.
- H. The discussion in the Union city council's June 15, 2017 executive session concerned the resignation of a city employee and the salary and benefits to be paid as severance to that employee. The city council did not consider a record exempt by law from public disclosure and did not have an attorney present during the executive session.

- I. Discussion of the resignation of a city employee and the severance package to be offered to that employee is not a topic authorized for discussion in an executive session under ORS 192.660(2)(a), 192.660(2)(f) or 192.660(h).
- J. The actions described in paragraphs 3(F) and 3(G) constitute one violation of ORS 192.660. The actions described in paragraphs 3(H) and 3(I) constitute a second violation of ORS 192.660.
- K. ORS 244.350(2)(a) authorizes the Commission to assess civil penalties of up to \$1,000.00 per violation of any provision of ORS 192.660.
- L. The results of the Commission investigation, if submitted through exhibits and testimony at a contested case hearing, would establish a preponderance of evidence in support of a post-hearing order to find two violations of ORS 192.660(2).

4. TERMS OF SETTLEMENT:

The parties agree as follows:

- A. On November 17, 2017, the Commission considered information in the preliminary review phase and acted to find cause to initiate an investigation of this matter. Randy Knop has indicated that he wishes to conclude this matter by agreeing to the terms and conditions in this order without completing the investigative phase.
- B. Randy Knop will receive a letter of education, as authorized by ORS 244.350, in order to settle and compromise this matter.
- C. The Commission releases, settles and compromises any and all claims, which have been or could be asserted against Randy Knop within the scope of the above-referenced proceedings.

D. Randy Knop will initiate no claims, litigation or other action against the Commission as a result of these proceedings.

5. REVIEW BY COUNSEL:

All of the parties hereto acknowledge that this agreement has been entered into by their own free will and with full understanding of the contents herein. Each of the parties further acknowledges that each has had the opportunity to seek the advice of counsel in comparing and reviewing this agreement.

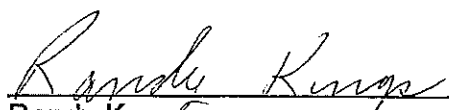
6. EFFECT:

This agreement is subject to the final approval of the Commission. Once approved, this agreement shall be the final disposition of the matter and shall be binding upon all parties.

By signing this agreement, Randy Knop agrees to waive his right to a contested case hearing as provided in ORS Chapter 183 and ORS 244.370. This order shall be the final order and all information in the Commission files on this matter shall become part of the record.

By signing this agreement, Randy Knop agrees to waive his right to obtain judicial review of this order as provided in ORS 183.482.

IN WITNESS WHEREOF, the parties have entered into and signed this stipulated final order on the dates set forth below.



Randy Knop



Date

Richard Burke, Chairperson
Oregon Government Ethics Commission

Date

BEFORE THE OREGON GOVERNMENT ETHICS COMMISSION

In the Matter of)
)
)
 Jay Blackburn)
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 _____)
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STIPULATED FINAL ORDER
CASE NO. 17-076XMT

1. **PURPOSE:** The purpose of this stipulated final order is to settle any and all claims, allegations and charges by the Oregon Government Ethics Commission (Commission) against Jay Blackburn.

2. **JURISDICTION:** At all material times, Jay Blackburn was a member of the city council for the city of Union. As the governing body of a public body, the members of the city council are subject to the executive session provisions of Oregon Public meetings law as set forth in ORS 192.660 and ORS 192.685.

3. **FACTS AS ALLEGED:**
 - A. Jay Blackburn participated in an executive session held by the Union city council on June 12, 2017. The provisions cited as authority for the executive session were ORS 192.660(2)(a) and 192.660(2)(f).

 - B. Jay Blackburn participated in an executive session held by the Union city council on June 15, 2017. The provisions cited as authority for this executive session were ORS 192.660(2)(a), 192.660(2)(f) and 192.660(2)(h).

 - C. ORS 192.660(2)(a) permits the governing body of a public body to hold an executive session to consider the employment of a public officer, employee, staff member or individual agent. The topic of employment compensation,

including salaries and benefits, is explicitly prohibited from discussion or negotiation during an executive session. [OAR 199-040-0020].

- D. ORS 192.660(2)(f) permits the governing body of a public body to hold an executive session to consider information or records that are exempt by law from public inspection.
- E. ORS 192.660(2)(h) permits the governing body of a public body to hold an executive session to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed. In order to meet the requirements for holding an executive session under ORS 192.660(2)(h), the attorney with whom the governing body is consulting must be present, either in person, by telephone, or by other concurrent means of communication. [OAR 199-040-0050].
- F. The purpose of the Union City Council's June 12, 2017 executive session was to discuss hiring the former fire chief as an interim fire chief. In the executive session, the city council did not consider a record exempt by law from public disclosure.
- G. During the executive session on June 12, 2017, the city council digressed from the announced topic of hiring an interim fire chief and instead discussed several other topics, including but not limited to the job performance of the city administrator, equipment bids and inventory lists, and contract negotiations with another fire district.
- H. The purpose of the Union City Council's June 15, 2017 executive session was to discuss the resignation of a city employee and the salary and benefits to be paid as severance to that employee. The city council did not consider a record exempt by law from public disclosure and did not have an attorney present during the executive session.

- I. Discussion of the resignation of a city employee and the severance package to be offered to that employee is not a topic authorized for discussion in an executive session under ORS 192.660(2)(a), 192.660(2)(f) or 192.660(h).
- J. The actions described in paragraphs 3(f) and 3(G) constitute one violation of ORS 192.660. The actions described in paragraphs 3(H) and 3(I) constitute a second violation of ORS 192.660.
- K. ORS 244.350(2)(a) authorizes the Commission to assess civil penalties of up to \$1,000.00 per violation of any provision of ORS 192.660.
- L. The results of the Commission investigation, if submitted through exhibits and testimony at a contested case hearing, would establish a preponderance of evidence in support of a post-hearing order to find two violations of ORS 192.660(2).

4. TERMS OF SETTLEMENT:

The parties agree as follows:

- A. On November 17, 2017, the Commission considered information in the preliminary review phase and acted to find cause to initiate an investigation of this matter. Jay Blackburn has indicated that he wishes to conclude this matter by agreeing to the terms and conditions in this order without completing the investigative phase.
- B. Jay Blackburn will receive a letter of education, as authorized by ORS 244.350, in order to settle and compromise this matter.
- C. The Commission releases, settles and compromises any and all claims, which have been or could be asserted against Jay Blackburn within the scope of the above-referenced proceedings.

D. Jay Blackburn will initiate no claims, litigation or other action against the Commission as a result of these proceedings.

5. REVIEW BY COUNSEL:

All of the parties hereto acknowledge that this agreement has been entered into by their own free will and with full understanding of the contents herein. Each of the parties further acknowledges that each has had the opportunity to seek the advice of counsel in comparing and reviewing this agreement.


6. EFFECT:

This agreement is subject to the final approval of the Commission. Once approved, this agreement shall be the final disposition of the matter and shall be binding upon all parties.

By signing this agreement, Jay Blackburn agrees to waive his right to a contested case hearing as provided in ORS Chapter 183 and ORS 244.370. This order shall be the final order and all information in the Commission files on this matter shall become part of the record.

By signing this agreement, Jay Blackburn agrees to waive his right to obtain judicial review of this order as provided in ORS 183.482.

IN WITNESS WHEREOF, the parties have entered into and signed this stipulated final order on the dates set forth below.


Jay Blackburn

1/16/19
Date

Richard Burke, Chairperson
Oregon Government Ethics Commission

Date

BEFORE THE OREGON GOVERNMENT ETHICS COMMISSION

In the Matter of

Matthew Later

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)
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)
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STIPULATED FINAL ORDER

CASE NO. 17-077XMT

1. **PURPOSE:** The purpose of this stipulated final order is to settle any and all claims, allegations and charges by the Oregon Government Ethics Commission (Commission) against Matthew Later.

2. **JURISDICTION:** At all material times, Matthew Later was a member of the city council for the city of Union. As the governing body of a public body, the members of the city council are subject to the executive session provisions of Oregon Public meetings law as set forth in ORS 192.660 and ORS 192.685.

3. **FACTS AS ALLEGED:**
 - A. Matthew Later participated in an executive session held by the Union city council on June 12, 2017. The provisions cited as authority for the executive session were ORS 192.660(2)(a) and 192.660(2)(f).

 - B. Matthew Later participated in an executive session held by the Union city council on June 15, 2017. The provisions cited as authority for this executive session were ORS 192.660(2)(a), 192.660(2)(f) and 192.660(2)(h).

 - C. ORS 192.660(2)(a) permits the governing body of a public body to hold an executive session to consider the employment of a public officer, employee, staff member or individual agent. The topic of employment compensation,

including salaries and benefits, is explicitly prohibited from discussion or negotiation during an executive session. [OAR 199-040-0020].

- D. ORS 192.660(2)(f) permits the governing body of a public body to hold an executive session to consider information or records that are exempt by law from public inspection.
- E. ORS 192.660(2)(h) permits the governing body of a public body to hold an executive session to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed. In order to meet the requirements for holding an executive session under ORS 192.660(2)(h), the attorney with whom the governing body is consulting must be present, either in person, by telephone, or by other concurrent means of communication. [OAR 199-040-0050].
- F. The purpose of the Union city council's June 12, 2017 executive session was to discuss hiring the former fire chief as an interim fire chief. In the executive session, the city council did not consider a record exempt by law from public disclosure.
- G. During the executive session on June 12, 2017, the city council digressed from the announced topic of hiring an interim fire chief and instead discussed several other topics, including but not limited to the job performance of the city administrator, equipment bids and inventory lists, and contract negotiations with another fire district.
- H. The discussion in the Union city council's June 15, 2017 executive session concerned the resignation of a city employee and the salary and benefits to be paid as severance to that employee. The city council did not consider a record exempt by law from public disclosure and did not have an attorney present during the executive session.

- I. Discussion of the resignation of a city employee and the severance package to be offered to that employee is not a topic authorized for discussion in an executive session under ORS 192.660(2)(a), 192.660(2)(f) or 192.660(h).
- J. The actions described in paragraphs 3(F) and 3(G) constitute one violation of ORS 192.660. The actions described in paragraphs 3(H) and 3(I) constitute a second violation of ORS 192.660.
- K. ORS 244.350(2)(a) authorizes the Commission to assess civil penalties of up to \$1,000.00 per violation of any provision of ORS 192.660.
- L. The results of the Commission investigation, if submitted through exhibits and testimony at a contested case hearing, would establish a preponderance of evidence in support of a post-hearing order to find two violations of ORS 192.660(2).

4. TERMS OF SETTLEMENT:

The parties agree as follows:

- A. On November 17, 2017, the Commission considered information in the preliminary review phase and acted to find cause to initiate an investigation of this matter. Matthew Later has indicated that he wishes to conclude this matter by agreeing to the terms and conditions in this order without completing the investigative phase.
- B. Matthew Later will receive a letter of education, as authorized by ORS 244.350, in order to settle and compromise this matter.
- C. The Commission releases, settles and compromises any and all claims, which have been or could be asserted against Matthew Later within the scope of the above-referenced proceedings.

D. Matthew Later will initiate no claims, litigation or other action against the Commission as a result of these proceedings.

5. REVIEW BY COUNSEL:

All of the parties hereto acknowledge that this agreement has been entered into by their own free will and with full understanding of the contents herein. Each of the parties further acknowledges that each has had the opportunity to seek the advice of counsel in comparing and reviewing this agreement.

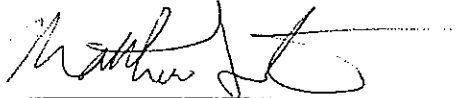
6. EFFECT:

This agreement is subject to the final approval of the Commission. Once approved, this agreement shall be the final disposition of the matter and shall be binding upon all parties.

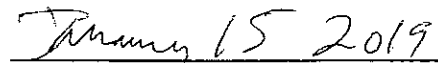
By signing this agreement, Matthew Later agrees to waive his right to a contested case hearing as provided in ORS Chapter 183 and ORS 244.370. This order shall be the final order and all information in the Commission files on this matter shall become part of the record.

By signing this agreement, Matthew Later agrees to waive his right to obtain judicial review of this order as provided in ORS 183.482.

IN WITNESS WHEREOF, the parties have entered into and signed this stipulated final order on the dates set forth below.



Matthew Later



Date

Richard Burke, Chairperson
Oregon Government Ethics Commission

Date

BEFORE THE OREGON GOVERNMENT ETHICS COMMISSION

In the Matter of

John Farmer

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STIPULATED FINAL ORDER

CASE NO. 17-078XMT

1. PURPOSE: The purpose of this stipulated final order is to settle any and all claims, allegations and charges by the Oregon Government Ethics Commission (Commission) against John Farmer.

2. JURISDICTION: At all material times, John Farmer was a member of the city council for the city of Union. As the governing body of a public body, the members of the city council are subject to the executive session provisions of Oregon Public meetings law as set forth in ORS 192.660 and ORS 192.685.

3. FACTS AS ALLEGED:
 - A. John Farmer participated in an executive session held by the Union city council on June 15, 2017. The provisions cited as authority for the executive session were ORS 192.660(2)(a), 192.660(2)(f) and 192.660(2)(h).

 - B. ORS 192.660(2)(a) permits the governing body of a public body to hold an executive session to consider the employment of a public officer, employee, staff member or individual agent. The topic of employment compensation, including salaries and benefits, is explicitly prohibited from discussion or negotiation during an executive session. [OAR 199-040-0020].

- C. ORS 192.660(2)(f) permits the governing body of a public body to hold an executive session to consider information or records that are exempt by law from public inspection.
- D. ORS 192.660(2)(h) permits the governing body of a public body to hold an executive session to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed. In order to meet the requirements for holding an executive session under ORS 192.660(2)(h), the attorney with whom the governing body is consulting must be present, either in person, by telephone, or by other concurrent means of communication. [OAR 199-040-0050].
- E. The discussion in the city council's June 15, 2017 executive session concerned the resignation of a city employee and the salary and benefits to be paid as severance to that employee. The city council did not consider a record exempt by law from public disclosure and did not have an attorney present during the executive session.
- F. Discussion of the resignation of a city employee and the severance package to be offered to that employee is not a topic authorized for discussion in an executive session under ORS 192.660(2)(a), 192.660(2)(f) or 192.660(h).
- G. The actions set forth in paragraph 3(E) constitute one violation of ORS 192.660.
- H. ORS 244.350 authorizes the Commission to assess civil penalties of up to \$1000 as a result of this violation.

- I. The results of the Commission investigation, if submitted through exhibits and testimony at a contested case hearing, would establish a preponderance of evidence in support of a post-hearing order to find a violation of ORS 192.660(2).

4. TERMS OF SETTLEMENT:

The parties agree as follows:

- A. On November 17, 2017, the Commission considered information in the preliminary review phase and acted to find cause to initiate an investigation of this matter. John Farmer has indicated that he wishes to conclude this matter by agreeing to the terms and conditions in this order without completing the investigative phase.
- B. John Farmer will receive a letter of education, as authorized by ORS 244.350, in order to settle and compromise this matter.
- C. The Commission releases, settles and compromises any and all claims, which have been or could be asserted against John Farmer within the scope of the above-referenced proceedings.
- D. John Farmer will initiate no claims, litigation or other action against the Commission as a result of these proceedings.

5. REVIEW BY COUNSEL:

All of the parties hereto acknowledge that this agreement has been entered into by their own free will and with full understanding of the contents herein. Each of the parties further acknowledges that each has had the opportunity to seek the advice of counsel in comparing and reviewing this agreement.

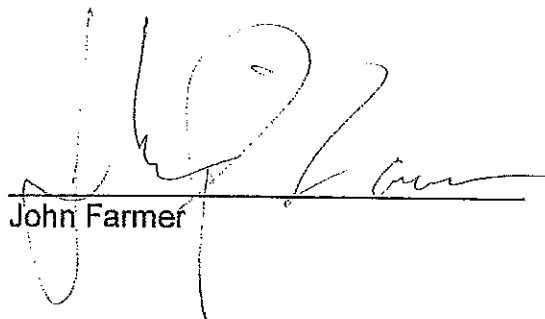
6. EFFECT:

This agreement is subject to the final approval of the Commission. Once approved, this agreement shall be the final disposition of the matter and shall be binding upon all parties.

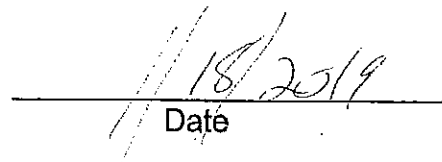
By signing this agreement, John Farmer agrees to waive his right to a contested case hearing as provided in ORS Chapter 183 and ORS 244.370. This order shall be the final order and all information in the Commission files on this matter shall become part of the record.

By signing this agreement, John Farmer agrees to waive his right to obtain judicial review of this order as provided in ORS 183.482.

IN WITNESS WHEREOF, the parties have entered into and signed this stipulated final order on the dates set forth below.



John Farmer



Date

Richard Burke, Chairperson
Oregon Government Ethics Commission

Date

BEFORE THE OREGON GOVERNMENT ETHICS COMMISSION

In the Matter of)
)
)
Walt Brookshire)
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_____)

STIPULATED FINAL ORDER
CASE NO. 17-079XMT

1. PURPOSE: The purpose of this stipulated final order is to settle any and all claims, allegations and charges by the Oregon Government Ethics Commission (Commission) against Walt Brookshire.

2. JURISDICTION: At all material times, Walt Brookshire was a member of the city council for the city of Union. As the governing body of a public body, the members of the city council are subject to the executive session provisions of Oregon Public meetings law as set forth in ORS 192.660 and ORS 192.685.

3. FACTS AS ALLEGED:
 - A. Walt Brookshire participated in an executive session held by the Union city council on June 12, 2017. The provisions cited as authority for the executive session were ORS 192.660(2)(a) and 192.660(2)(f).

 - B. Walt Brookshire participated in an executive session held by the Union city council on June 15, 2017. The provisions cited as authority for this executive session were ORS 192.660(2)(a), 192.660(2)(f) and 192.660(2)(h).

 - C. ORS 192.660(2)(a) permits the governing body of a public body to hold an executive session to consider the employment of a public officer, employee, staff member or individual agent. The topic of employment compensation,

including salaries and benefits, is explicitly prohibited from discussion or negotiation during an executive session. [OAR 199-040-0020].

- D. ORS 192.660(2)(f) permits the governing body of a public body to hold an executive session to consider information or records that are exempt by law from public inspection.
- E. ORS 192.660(2)(h) permits the governing body of a public body to hold an executive session to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed. In order to meet the requirements for holding an executive session under ORS 192.660(2)(h), the attorney with whom the governing body is consulting must be present, either in person, by telephone, or by other concurrent means of communication. [OAR 199-040-0050].
- F. The purpose of the Union city council's June 12, 2017 executive session was to discuss hiring the former fire chief as an interim fire chief. In the executive session, the city council did not consider a record exempt by law from public disclosure.
- G. During the executive session on June 12, 2017, the city council digressed from the announced topic of hiring an interim fire chief and instead discussed several other topics, including but not limited to the job performance of the city administrator, equipment bids and inventory lists, and contract negotiations with another fire district.
- H. The discussion in the Union City Council's June 15, 2017 executive session concerned the resignation of a city employee and the salary and benefits to be paid as severance to that employee. The city council did not consider a record exempt by law from public disclosure and did not have an attorney present during the executive session.

- I. Discussion of the resignation of a city employee and the severance package to be offered to that employee is not a topic authorized for discussion in an executive session under ORS 192.660(2)(a), 192.660(2)(f) or 192.660(h).
- J. The actions described in paragraphs 3(F) and 3(G) constitute one violation of ORS 192.660. The actions described in paragraphs 3(H) and 3(I) constitute a second violation of ORS 192.660.
- K. ORS 244.350(2)(a) authorizes the Commission to assess civil penalties of up to \$1,000.00 per violation of any provision of ORS 192.660.
- L. The results of the Commission investigation, if submitted through exhibits and testimony at a contested case hearing, would establish a preponderance of evidence in support of a post-hearing order to find two violations of ORS 192.660(2).

4. TERMS OF SETTLEMENT:

The parties agree as follows:

- A. On November 17, 2017, the Commission considered information in the preliminary review phase and acted to find cause to initiate an investigation of this matter. Walt Brookshire has indicated that he wishes to conclude this matter by agreeing to the terms and conditions in this order without completing the investigative phase.
- B. Walt Brookshire will receive a letter of education, as authorized by ORS 244.350, in order to settle and compromise this matter.
- C. The Commission releases, settles and compromises any and all claims, which have been or could be asserted against Walt Brookshire within the scope of the above-referenced proceedings.

D. Walt Brookshire will initiate no claims, litigation or other action against the Commission as a result of these proceedings.

5. REVIEW BY COUNSEL:

All of the parties hereto acknowledge that this agreement has been entered into by their own free will and with full understanding of the contents herein. Each of the parties further acknowledges that each has had the opportunity to seek the advice of counsel in comparing and reviewing this agreement.

6. EFFECT:

This agreement is subject to the final approval of the Commission. Once approved, this agreement shall be the final disposition of the matter and shall be binding upon all parties.

By signing this agreement, Walt Brookshire agrees to waive his right to a contested case hearing as provided in ORS Chapter 183 and ORS 244.370. This order shall be the final order and all information in the Commission files on this matter shall become part of the record.

By signing this agreement, Walt Brookshire agrees to waive his right to obtain judicial review of this order as provided in ORS 183.482.

IN WITNESS WHEREOF, the parties have entered into and signed this stipulated final order on the dates set forth below.



Walt Brookshire

1/16/19

Date

Richard Burke, Chairperson
Oregon Government Ethics Commission

Date

including salaries and benefits, is explicitly prohibited from discussion or negotiation during an executive session. [OAR 199-040-0020].

- D. ORS 192.660(2)(f) permits the governing body of a public body to hold an executive session to consider information or records that are exempt by law from public inspection.
- E. ORS 192.660(2)(h) permits the governing body of a public body to hold an executive session to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed. In order to meet the requirements for holding an executive session under ORS 192.660(2)(h), the attorney with whom the governing body is consulting must be present, either in person, by telephone, or by other concurrent means of communication. [OAR 199-040-0050].
- F. The purpose of the Union city council's June 12, 2017 executive session was to discuss hiring the former fire chief as an interim fire chief. In the executive session, the city council did not consider a record exempt by law from public disclosure.
- G. During the executive session on June 12, 2017, the city council digressed from the announced topic of hiring an interim fire chief and instead discussed several other topics, including but not limited to the job performance of the city administrator, equipment bids and inventory lists, and contract negotiations with another fire district.
- H. The discussion in the Union city council's June 15, 2017 executive session concerned the resignation of a city employee and the salary and benefits to be paid as severance to that employee. The city council did not consider a record exempt by law from public disclosure and did not have an attorney present during the executive session.

- I. Discussion of the resignation of a city employee and the severance package to be offered to that employee is not a topic authorized for discussion in an executive session under ORS 192.660(2)(a), 192.660(2)(f) or 192.660(h).
- J. The actions described in paragraphs 3(F) and 3(G) constitute one violation of ORS 192.660. The actions described in paragraphs 3(H) and 3(I) constitute a second violation of ORS 192.660.
- K. ORS 244.350(2)(a) authorizes the Commission to assess civil penalties of up to \$1,000.00 per violation of any provision of ORS 192.660.
- L. The results of the Commission investigation, if submitted through exhibits and testimony at a contested case hearing, would establish a preponderance of evidence in support of a post-hearing order to find two violations of ORS 192.660(2).

4. TERMS OF SETTLEMENT:

The parties agree as follows:

- A. On November 17, 2017, the Commission considered information in the preliminary review phase and acted to find cause to initiate an investigation of this matter. Susan Hawkins has indicated that he wishes to conclude this matter by agreeing to the terms and conditions in this order without completing the investigative phase.
- B. Susan Hawkins will receive a letter of education, as authorized by ORS 244.350, in order to settle and compromise this matter.
- C. The Commission releases, settles and compromises any and all claims, which have been or could be asserted against Susan Hawkins within the scope of the above-referenced proceedings.

D. Susan Hawkins will initiate no claims, litigation or other action against the Commission as a result of these proceedings.

5. REVIEW BY COUNSEL:

All of the parties hereto acknowledge that this agreement has been entered into by their own free will and with full understanding of the contents herein. Each of the parties further acknowledges that each has had the opportunity to seek the advice of counsel in comparing and reviewing this agreement.

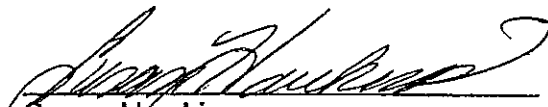
6. EFFECT:

This agreement is subject to the final approval of the Commission. Once approved, this agreement shall be the final disposition of the matter and shall be binding upon all parties.

By signing this agreement, Susan Hawkins agrees to waive his right to a contested case hearing as provided in ORS Chapter 183 and ORS 244.370. This order shall be the final order and all information in the Commission files on this matter shall become part of the record.

By signing this agreement, Susan Hawkins agrees to waive his right to obtain judicial review of this order as provided in ORS 183.482.

IN WITNESS WHEREOF, the parties have entered into and signed this stipulated final order on the dates set forth below.



Susan Hawkins

2-6-19

Date

Richard Burke, Chairperson
Oregon Government Ethics Commission

Date

BEFORE THE OREGON GOVERNMENT ETHICS COMMISSION

In the Matter of)
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STIPULATED FINAL ORDER
CASE NO. 18-138XDG

1. PURPOSE: The purpose of this stipulated final order is to settle any and all claims, allegations and charges by the Oregon Government Ethics Commission (Commission) against Dre Davey.

2. JURISDICTION: At all material times, Dre Davey was a member of the Board of Directors for the Portland Village School. As the governing body of a public body, the members of the Board of Directors are subject to the executive session provisions of Oregon Public Meetings law as set forth in ORS 192.660 and ORS 192.685.

3. STIPULATED FACTS:
 - A. Dre Davey participated in an executive session held by the Portland Village School Board of Directors on 5/24/18. The statutory authorizations cited for the executive session were ORS 192.660(2)(a) – to consider the employment of an officer, employee, or agent, and ORS 192.660(2)(b) – to discipline, dismiss, or hear complaints about an officer, employee, or agent.

 - B. In addition to the topics cited above, the Board discussed several other topics in the 5/24/18 executive session, including: hiring an outside consultant, requiring an external equity assessment audit, and performing administrative and policy reviews. These topics are not authorized to be

discussed in executive session under ORS 192.660(2). The Board reached decisions on these topics during the executive session, in violation of ORS 192.660(6), which prohibits making a final decision in executive session.

- C. ORS 244.350 authorizes the Commission to assess civil penalties of up to \$1,000 as a result of any violation of ORS 192.660.
- D. The results of the Commission investigation, if submitted through exhibits and testimony at a contested case hearing, would establish a preponderance of evidence in support of a post-hearing order to find violations of ORS 192.660(2) and (6).

4. TERMS OF SETTLEMENT:

The parties agree as follows:

- A. On 8/10/18, the Commission considered information in the preliminary review phase and acted to find cause to initiate an investigation of these matters. Dre Davey has indicated he wishes to conclude this matter by agreeing to the terms and conditions in this order without completing the investigative phase.
- B. Dre Davey will receive a letter of education in lieu of a civil penalty as authorized by ORS 244.350 in order to settle and compromise this matter.
- C. The Commission releases, settles and compromises any and all claims, which have been or could be asserted against Dre Davey within the scope of the above-referenced proceedings.
- D. Dre Davey will initiate no claims, litigation or other action against the

Commission as a result of these proceedings.

5. REVIEW BY COUNSEL:

All of the parties hereto acknowledge that this agreement has been entered into by their own free will and with full understanding of the contents herein. Each of the parties further acknowledges that each has had the opportunity to seek the advice of counsel in comparing and reviewing this agreement.

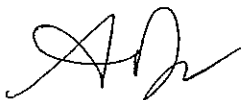
6. EFFECT:

This agreement is subject to the final approval of the Commission. Once approved, this agreement shall be the final disposition of the matter and shall be binding upon all parties.

By signing this agreement, Dre Davey agrees to waive the right to a contested case hearing as provided in ORS Chapter 183 and ORS 244.370. This order shall be the final order and all information in the Commission files on this matter shall become part of the record.

By signing this agreement, Dre Davey agrees to waive the right to obtain judicial review of this order as provided in ORS 183.482.

IN WITNESS WHEREOF, the parties have entered into and signed this stipulated final order on the dates set forth below.



Dre Davey
Andrea Davey

1 / 18 / 19

Date

Richard Burke, Chairperson
Oregon Government Ethics Commission

Date

BEFORE THE OREGON GOVERNMENT ETHICS COMMISSION

In the Matter of)
)
)
Zapoura Newton-Calvert)
)
)
_____)

STIPULATED FINAL ORDER
CASE NO. 18-140XDG

1. PURPOSE: The purpose of this stipulated final order is to settle any and all claims, allegations and charges by the Oregon Government Ethics Commission (Commission) against Zapoura Newton-Calvert.

2. JURISDICTION: At all material times, Zapoura Newton-Calvert was a member of the Board of Directors for the Portland Village School. As the governing body of a public body, the members of the Board of Directors are subject to the executive session provisions of Oregon Public Meetings law as set forth in ORS 192.660 and ORS 192.685.

3. STIPULATED FACTS:
 - A. Zapoura Newton-Calvert participated in an executive session held by the Portland Village School Board of Directors on 5/24/18. The statutory authorizations cited for the executive session were ORS 192.660(2)(a) – to consider the employment of an officer, employee, or agent, and ORS 192.660(2)(b) – to discipline, dismiss, or hear complaints about an officer, employee, or agent.

 - B. In addition to the topics cited above, the Board discussed several other topics in the 5/24/18 executive session, including: hiring an outside consultant, requiring an external equity assessment audit, and performing administrative and policy reviews. These topics are not authorized to be

discussed in executive session under ORS 192.660(2). The Board reached decisions on these topics during the executive session, in violation of ORS 192.660(6), which prohibits making a final decision in executive session.

- C. ORS 244.350 authorizes the Commission to assess civil penalties of up to \$1,000 as a result of any violation of ORS 192.660.
- D. The results of the Commission investigation, if submitted through exhibits and testimony at a contested case hearing, would establish a preponderance of evidence in support of a post-hearing order to find violations of ORS 192.660(2) and (6).

4. TERMS OF SETTLEMENT:

The parties agree as follows:

- A. On 8/10/18, the Commission considered information in the preliminary review phase and acted to find cause to initiate an investigation of these matters. Zapoura Newton-Calvert has indicated she wishes to conclude this matter by agreeing to the terms and conditions in this order without completing the investigative phase.
- B. Zapoura Newton-Calvert will receive a letter of education in lieu of a civil penalty as authorized by ORS 244.350 in order to settle and compromise this matter.
- C. The Commission releases, settles and compromises any and all claims, which have been or could be asserted against Zapoura Newton-Calvert within the scope of the above-referenced proceedings.

D. Zapoura Newton-Calvert will initiate no claims, litigation or other action against the Commission as a result of these proceedings.

5. REVIEW BY COUNSEL:

All of the parties hereto acknowledge that this agreement has been entered into by their own free will and with full understanding of the contents herein. Each of the parties further acknowledges that each has had the opportunity to seek the advice of counsel in comparing and reviewing this agreement.

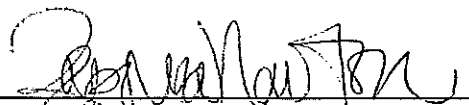
6. EFFECT:

This agreement is subject to the final approval of the Commission. Once approved, this agreement shall be the final disposition of the matter and shall be binding upon all parties.

By signing this agreement, Zapoura Newton-Calvert agrees to waive her right to a contested case hearing as provided in ORS Chapter 183 and ORS 244.370. This order shall be the final order and all information in the Commission files on this matter shall become part of the record.

By signing this agreement, Zapoura Newton-Calvert agrees to waive her right to obtain judicial review of this order as provided in ORS 183.482.

IN WITNESS WHEREOF, the parties have entered into and signed this stipulated final order on the dates set forth below.



Zapoura Newton-Calvert

01.15.19

Date

Richard Burke, Chairperson
Oregon Government Ethics Commission

Date

OREGON GOVERNMENT ETHICS COMMISSION
INVESTIGATION

CASE NO: 18-161EHW

DATE: 02/27/2019

RESPONDENT: URBIGKEIT, Carla, State Trooper, Oregon State Police

COMPLAINANT: WINSTON, Zachary

RECOMMENDED ACTION: Make a Preliminary Finding of 1 Violation of ORS 244.025

1 **SYNOPSIS:** Carla Urbigkeit was a State Trooper for the Oregon State Police (OSP)
2 when the events relevant to this investigation occurred. The focus of this investigation
3 was to determine if a preponderance of evidence exists to indicate that Carla Urbigkeit
4 accepted a gift in violation of ORS Chapter 244.

5
6 Based on the available information, it appears that Carla Urbigkeit accepted a necklace
7 and bracelet with a value of \$107 from Misty Billings, and that Ms. Billings had a legislative
8 or administrative interest in Ms. Urbigkeit's decision-making as a result of Ms. Urbigkeit's
9 participation as an OSP Trooper in a criminal case in which Ms. Billings was a named
10 victim.

11
12 There is sufficient evidence to indicate that Carla Urbigkeit committed one (1) violation of
13 ORS 244.025 by accepting gifts in excess of the \$50 limit from a source with a legislative
14 or administrative interest in her decision-making as a public official.

15
16 **RELEVANT STATUTES:** The following Oregon Revised Statutes are applicable to the
17 issues addressed herein:

18 //

() //

1 **ORS 244.020 Definitions.** As used in this chapter, unless the context requires
2 otherwise:

3
4 (15) "Public official" means the First Partner and any person who, when an alleged
5 violation of this chapter occurs, is serving the State of Oregon or any of its political
6 subdivisions or any other public body as defined in ORS 174.109 as an elected
7 official, appointed official, employee or agent, irrespective of whether the person is
8 compensated for the services.

9
10 (7)(a) "Gift" means something of economic value given to a public official, a
11 candidate or a relative or member of the household of the public official or
12 candidate:

13 (A) Without valuable consideration of equivalent value, including the full or
14 partial forgiveness of indebtedness, which is not extended to others who
15 are not public officials or candidates or the relatives or members of the
16 household of public officials or candidates on the same terms and
17 conditions[.]

18
19 (10)(a) "Legislative or administrative interest" means an economic interest, distinct
20 from that of the general public, in any matter subject to the decision or vote of the
21 public official acting in the public official's capacity as a public official.

22
23 **ORS 244.025 Gift limit.** (1) During a calendar year, a public official, a candidate
24 or a relative or member of the household of the public official or candidate may not
25 solicit or receive, directly or indirectly, any gift or gifts with an aggregate value in
26 excess of \$50 from any single source that could reasonably be known to have a
27 legislative or administrative interest.

28
29 **INVESTIGATION:** The Oregon Government Ethics Commission (Commission) initiated
30 a preliminary review based on information in a signed complaint from Zachary Winston
31 on 7/11/18 (#PR1). A copy of the complaint was provided to the respondent. In the

1 complaint, Mr. Winston alleged that Carla Urbigkeit, an Oregon State Police Trooper, may
2 have violated Oregon Government Ethics law. The Commission found cause to
3 investigate on 9/21/18, after considering the information developed in preliminary review.
4 The focus of the investigation was to determine if there is sufficient evidence to indicate
5 that Carla Urbigkeit violated ORS 244.025 by accepting gifts exceeding \$50 in value from
6 a source that had a legislative or administrative interest in her decision-making. Carla
7 Urbigkeit and Zachary Winston have been notified of the Commission action in this
8 matter. Both have been invited to provide any information that would assist the
9 Commission in conducting this investigation.

10 11 BACKGROUND

12 The complainant, Mr. Winston, is an attorney with Mark C. Cogan P.C. Law Offices, which
13 is the law firm that provided defense counsel in a criminal case that is related to the
14 subject of this investigation. The complaint contained a letter dated 7/2/18, which was
15 written by attorney Mark Cogan and addressed to Oregon State Police Superintendent,
16 Travis Hampton. The letter states that Mr. Cogan provided defense counsel for a Mr.
17 Robert James Watson III in Lincoln County Case No. 17CR58071 (SP17295396) and that
18 Carla Urbigkeit was the lead detective in the investigation. (#PR1)

19
20 According to information obtained from the complainant, the respondent, and the named
21 victim in the case (Misty Billings), Mr. Watson purchased a dump truck from Ms. Billings,
22 and there was a dispute about the terms of the transaction, which resulted in the criminal
23 case. (#PR1; #PR2; #INV1) Oregon Judicial Case Information Network (OJCIN) eCourt
24 information indicates that Mr. Watson was charged with Aggravated Theft and
25 Possession of a Stolen Vehicle on 8/3/17 and was indicted on 8/31/17. According to
26 OJCIN, a final judgment of dismissal was entered and reported on 7/2/18. (#INV3)

27
28 At some point over the course of the criminal investigation, the dump truck was seized by
29 law enforcement and returned to Ms. Billings. Text messages exchanged between Ms.
30 Urbigkeit and Ms. Billings (which are excerpted below) indicate that the dump truck had
31 been returned to Ms. Billings by 10/10/17. (#PR1; #INV1; #INV4) The defense appears

1 to have come in to possession of the text message thread from the State, as a result of
2 making requests for information pursuant to representing Mr. Watson in his criminal case.
3 These text messages also created the basis for which Mr. Winston filed this complaint.
4 Portions of the text messages between Ms. Urbigkeit and Ms. Billings are excerpted
5 below. (#PR1; #INV4)

6
7 OSP's Office of Professional Standards conducted an internal investigation of this and
8 other matters related to Carla Urbigkeit's involvement in this case. Information obtained
9 from OSP is also included below. (#INV4)

10
11 Mr. Cogan's letter alleges that the relationship between Ms. Urbigkeit and Ms. Billings
12 "transcended the usual professional bounds." It also alleges that Ms. Urbigkeit took
13 actions which "obstructed * * * efforts to inspect the evidence" and were "instrumental in
14 returning" the dump truck to Ms. Billings, which "coincided with Ms. Billings offering [her]
15 valuable gifts" (which, based on the text messages below, the complainant believes to
16 have been a gun). The letter stated that Mr. Winston's attorneys "delayed submitting this
17 complaint until after the underlying litigation was concluded," because they "did not want
18 anyone to think we were filing this complaint to gain any tactical advantage for our client."
19 (#PR1)

20
21 TEXT MESSAGE THREAD

22 The complaint included text message correspondence between Carla Urbigkeit and Ms.
23 Billings that appears to have been sent from 10/10/17 – 4/24/18. Segments of the text
24 messages exchanged between the two on 10/10/17 are excerpted below:

25
26 *Billings: Hi there. Dying for tomorrow. * * * Can I take the truck to get worked on.
27 Insurance company is paying out Thank god and you (9:12 AM)*

28 *Urbigkeit: Glad to hear about your insurance!!! * * * I'm working on getting a release
29 for your truck so you can do whatever you wan[t] to it. I'm nervous about getting
30 rid of it though... just for court reasons*

31 *Billings: Just painting it now. Will not sell it at all till this is in motion. * * * (11:47
32 AM)*

1 Billings: Do I need a release to take it to the bo[d]yshop?? (12:00 PM) * * *

2 Urbigkeit: No, is it already painted? (12:03 PM)

3 Billings: No not painted yet .. it's going today (12:05 PM) (#PR1; #INV4)

4
5 The following text messages are excerpted from their communications on 12/22/17:

6
7 Billings: Hi!!! Was just wondering if you are on shift this weekend. I have a gift for
8 you and would love to hand deliver it to you (3:13 PM)

9 Billings: And do not tell me you can't except [sic] gifts we can do it when

10 Urbigkeit: Ahhhh, I am in Salem right now. Now working this weekend. Did you
11 get me a new .223 rifle?? (3:15 PM)

12 Billings: Yep I knew it (3:35 PM)

13 Billings: With a name on your first bullet [sic] Bahaha (3:35 PM)

14 Urbigkeit: 1yes!!! [sic] (3:52 PM) (#PR1; #INV4)

15
16 Based on subsequent text message correspondence, it appears that the gift was not
17 delivered to Ms. Urbigkeit until 4/24/18. (The complaint actually alleged the following text
18 exchange to have taken place on 2/26/18; however, OSP records show that the text
19 thread had just been redacted in a way that made them appear to have been on 2/26/18,
20 and they were really sent on 4/24/18):

21
22 Billings: Are in in [sic] town today? (9:05 PM)

23 Urbigkeit: Yes! At the office now and writing reports all day!

24 Billings: Well I will be in town around 11. Would like to get your XMAS present to
25 you today. Its [sic] only been 4 months. LOL (9:12 AM)

26 Urbigkeit: Hahahaha! I am kind a hoping it isn't an edible present ... like a
27 Christmas lasagna (9:20 AM)

28 Urbigkeit: Ha! The fruitcake would've survived!! (9:32 AM)

29 Urbigkeit: I'm all FUBAR'd ... the dates are good for trial. I was getting confused
30 with June and July. Those dates are a go!!! (10:10 AM)

31 Urbigkeit: Sorry for the brain-fart (10:11 AM)

1 *Billings: That's okay. I have an oil change at 11 at sunwest and then a tanning*
2 *then I will text ya and bring you your present (10:13 AM)*

3 *Urbigkeit: Sounds good! (10:14 AM) * * * * **

4 *Billings: I'm here. Yay me (12:07 PM)*

5 *Urbigkeit: THANK YOU SO MUCH for the gifts. You really are too much and I*
6 *love them! (1:17 PM)*

7 *Billings: I'm glad. It was important for me to show my gratitude to you. Cause you*
8 *saved me (2:00PM)*

9 *Urbigkeit: Well you HAVE shown me! That's the beauty of your cinserety! [sic]*
10 *And me doing what I'm paid to do. But thank you * * * * * (#PR1; #INV4)*
11

12 RESPONSE

13 Upon receiving notice that a complaint had been filed, the respondent engaged Michael
14 Staropoli, Attorney at Law, to represent her in this matter. In a letter received by the
15 Commission on 8/6/18, Mr. Staropoli responded on his client's behalf to the allegations
16 made in the complaint. A copy of the response, part of which is excerpted below, is also
17 provided to the Commissioners in full with this report:
18

19 "Trooper Urbigkeit was involved as an investigator on the case. In that capacity
20 Trooper Urbigkeit interacted with and got to know Ms. Billings, who believed that
21 a friendship had been formed. In that capacity, well after the Indictment was
22 returned * * * Ms. Billings began to express a desire to give Trooper Urbigkeit a
23 Christmas gift. It took several months, but ultimately in April 2018 Ms. Billings
24 presented Trooper Urbigkeit with a Christmas gift consisting of a single wire
25 bracelet with a 'charm' on it and a thin necklace with a pendant.
26

27 While Trooper Urbigkeit was not told the cost, it was her impression that the jewelry
28 was inexpensive and that it was what might be identified as artisan or even
29 costume jewelry. Regardless, Trooper Urbigkeit subsequently returned the gift of
30 jewelry to Ms. Billings. * * * * * (#PR2)

31 //

32 //

1 In an attempt to obtain additional information during investigation, the Commission
2 investigator sent an inquiry containing approximately six items (questions) by email to Mr.
3 Staropoli on 2/7/19 and cced his client, the respondent. On 2/8/19, Mr. Staropoli provided
4 an email in response indicating that he and the respondent would not be providing any
5 information to assist the Commission with its investigation. The email is excerpted below:
6

7 "Ms. Urbigkeit politely declines the invitation to speak with you. Since she is
8 represented by counsel and invokes her constitutional rights to such
9 representation, along with her 5th Amendment right to remain silent, you are *not* to
10 contact her. Furthermore, as noted in a prior communication provided to you, Ms.
11 Urbigkeit does not waive any rights or protections that she has as a covered
12 member of the OSPOA, and she expressly reserves and stands by all rights she
13 is granted in that capacity. This includes her rights to the confidentiality of any
14 investigations that may have been conducted of her as an employee.
15

16 Item number 4 of the [2/7/19 investigative inquiry], poses a question in which you
17 make reference to a statement that you indicate I made to you in a previous letter. I
18 have been unable to locate a letter I wrote to you in which I made such a
19 statement. * * * *I respectfully request you forward a copy of that letter to me at this*
20 *time.*" (emphasis original) (#INV2)
21

22 (For the purpose of providing context to the preceding paragraph, item number 4 of the
23 Commission investigator's 2/7/19 inquiry read: "[Your] previous letter * * * indicated that
24 the value of the gift(s) given * * * by Ms. Billings * * * collectively had a full market value
25 of less than \$50. How did you come to that conclusion?") The Commission investigator
26 responded to Mr. Staropoli's email on the same day explaining that item 4 was formed
27 based on a statement from the letter he had sent to the Commission during preliminary
28 review on 8/6/19, which said "it was [Ms. Urbigkeit's] impression that the jewelry was
29 inexpensive and that it was... artisan or even costume jewelry." (#INV2)
30

//

//

1 On the same day, 2/8/19, the Commission investigator emailed Mr. Staropoli a new copy
2 of the investigative inquiry with an amended item number 4. At that time, the Commission
3 investigator also informed Mr. Staropoli that cooperation with the Commission
4 investigation would be a mitigating factor in Ms. Urbigkeit's sanction in the event the
5 Commission makes a preliminary finding of violation. (#INV2)

6
7 No further communications have been received from Mr. Staropoli or the respondent, Ms.
8 Urbigkeit, as of the date of this report.

9
10 INFORMATION OBTAINED FROM MISTY BILLINGS

11 On 8/21/18, attorney Daniel C. Lorenz (who represented Ms. Billings in the criminal
12 matter) forwarded an email to the Commission investigator that he had written to OSP Lt.
13 Casey Thomas approximately two weeks earlier. The email appears to have been
14 responding to OSP Office of Professional Standards' attempt to conduct its internal
15 investigation of the matter (#INV5; #INV4). The email states:

16
17 "[A]t this point I have determined to cancel tomorrow's interview. * * * I see no
18 benefit to my client in creating an additional set of notes accessible to Mr. Watson's
19 attorneys * * *. * * * Although I have not seen the text message exchanges between
20 my client and Officer Urbigkeit, I assume they establish that my client considered
21 Carla [Urbigkeit] a friend, even if Officer Urbigkeit did not consider [Ms. Billings]
22 the same. As with many of her friends, [Ms. Billings] bought her a Christmas
23 present totally unrelated to the investigation or the prosecution * * *. I assume you
24 have already confirmed that the gift consisted of some inexpensive jewelry of no
25 significant value. [Ms. Billings] had no idea that any gift could or would become an
26 issue. Ultimately, the gift was returned in any event.

27
28 As for the issue of guns, any discussion was not serious, and no gun, much less
29 an assault rifle, was ever given to Officer Urbigkeit." (#INV5)

30 //

1 In a telephone conversation with the Commission investigator on 2/8/19, Misty Billings
2 stated that she became acquainted with Carla Urbigkeit in her capacity as an OSP
3 Trooper as a result of Ms. Urbigkeit investigating the criminal matter involving Ms. Billings'
4 dump truck. Ms. Billings also made statements confirming that she had regained
5 possession of the dump truck. According to Ms. Billings, she was permitted to keep the
6 \$60,000 that Mr. Watson had paid her for the truck. (#INV1)

7
8 The Commission investigator informed Ms. Billings of the \$50 limitation that ORS 244.025
9 places on gifts to public officials and then asked Ms. Billings what the gift was and how
10 much it cost. Ms. Billings replied that she bought Ms. Urbigkeit a necklace and a bracelet
11 from Fred Meyer for \$107. Ms. Billings also provided a Fred Meyer receipt confirming that
12 she paid \$107.89 for the two items (a bracelet (\$27.90) and a necklace (\$79.99)). Ms.
13 Billings went on to explain that she wished to give Ms. Urbigkeit a Christmas gift because
14 of Ms. Urbigkeit's kindness toward her and in order to show her appreciation for her work
15 on her case. Ms. Billings also said that she felt Ms. Urbigkeit's work helped her get the
16 dump truck back. (#INV1)

17
18 When asked about the return of the items, Ms. Billings replied that the bracelet and the
19 necklace were returned by an attorney (who she believes is named "Mike") and another
20 individual who she perceived to be the "head of OSP." She said the two men returned the
21 gift by hand delivering it in-person to her at her home and that they also instructed her
22 not to have any further contact with Ms. Urbigkeit. (#INV1)

23 24 INFORMATION OBTAINED FROM OSP REPRESENTATIVES

25 In an attempt to obtain information about the item(s) given to Carla Urbigkeit by Ms.
26 Billings, the Commission investigator attempted to contact OSP Lt. Casey Thomas by
27 phone on 2/7/19. A message indicated that Lt. Thomas no longer works in the OSP Office
28 of Professional Standards, and the call was forwarded to another line answered by a Lt.
29 Fitzgerald. Lt. Fitzgerald indicated that he is not personally familiar with the investigation
30 and that although the investigation has concluded the matter is still confidential. (#INV4)

31 //

1 The Commission investigator proceeded with a subpoena, and OSP Risk Manager, Mary
2 Beth Allen, responded with documents from the internal investigation file on Ms. Urbigkeit
3 for this and related matters. (#INV4)

4
5 The OSP records confirm much of the other information and are noted elsewhere in this
6 report. OSP records confirm that Ms. Billings gave Ms. Urbigkeit a necklace and bracelet
7 (not a gun) as a Christmas gift in part as a result of her participation in the criminal
8 investigation, and that at least one of the items came from Fred Meyer. The information
9 confirms information from Ms. Billings and the respondent indicating that Ms. Billings
10 regained possession and resold the dump truck to another buyer and was able to keep
11 the \$60,000 paid for it by Mr. Watson. (#INV4)

12
13 The information also indicates that the gifts were returned by a representative of OSP
14 *after* Ms. Urbigkeit was placed on administrative leave in connection with this matter; it
15 also confirms Ms. Billings' statement that she and Ms. Urbigkeit were to have no contact.
16 (#INV4)

17
18 There is not any specific information in the records provided by OSP about the value of
19 the items. (#INV4)

20
21 According to OSP records, Mr. Urbigkeit appears to have actually received the gift on
22 4/24/18 (it appears that the complainant was mistaken about the date being February
23 2018 because of the way OSP had redacted the texts). (#INV4)

24
25 **CONCLUSIONS:** Carla Urbigkeit was employed as a Trooper for the Oregon State Police
26 during the period relevant to this case. As such, Carla Urbigkeit was a "public official" (as
27 defined in ORS 244.020(15)) and therefore subject to ORS Chapter 244 Oregon
28 Government Ethics law.

29
30 Oregon Government Ethics law limits gifts that a public official may accept. For the
31 purpose of Government Ethics law, a "gift" is something of economic value given to a

1 public official without valuable consideration of equivalent value, which is not extended to
2 others who are not public officials on the same terms and conditions (ORS 244.020(7)(a)).
3 In relevant part, ORS 244.025 prohibits public officials from accepting any gift(s) with an
4 aggregate value in excess of \$50, per calendar year, from any single source that might
5 reasonably have a "legislative or administrative interest" in the recipient's decision-
6 making. ORS 244.020(10) specifies that "legislative or administrative interest" means an
7 economic interest, distinct from that of the general public, in any matter subject to the
8 decision-making of the public official acting in an official capacity.

9
10 In other words, ORS 244.025 prohibited Ms. Urbigkeit from accepting more than \$50
11 worth of "gifts" (per ORS 244.020(7)) from Ms. Billings in a given calendar year, if Ms.
12 Billings had a "distinct" "economic interest" in Ms. Urbigkeit's decision-making as an OSP
13 Trooper.

14
15 The complaint alleged that Ms. Billings gifted Ms. Urbigkeit with a rifle, based on a text
16 message exchange between Carla Urbigkeit and Ms. Billings on 12/22/17. However, the
17 other information gathered appears to indicate that the statements regarding the rifle were
18 made in jest and that the gift was actually a necklace and bracelet.

19
20 Information gathered also indicates that Ms. Billings intended the necklace and bracelet
21 to serve as a Christmas gift to Ms. Urbigkeit. Regardless, any gift to a public official is
22 subject to the \$50 limitation in ORS 244.025 if it is not offered to others who are not public
23 officials on the same terms and conditions (ORS 244.020(7)). Information from the
24 complainant, the respondent's attorney and Ms. Billings indicates that Carla Urbigkeit
25 became acquainted with Ms. Billings as a result of investigating a criminal case in which
26 Ms. Billings was a named victim. Moreover, Ms. Billings' statements to the Commission
27 investigator on 2/8/19 and her text message to Ms. Urbigkeit within hours after delivering
28 the gift (*"It was important for me to show my gratitude to you. Cause you saved me"*)
29 indicate that was offered, at least in part, as a result of Ms. Urbigkeit's contributions in the
30 criminal matter. As a result, the gift does appear to have been a "gift" subject to Oregon
Government Ethics law.

1 In order for the gift to be subject to the \$50 limit in ORS 244.025, Ms. Billings must have
2 had a "legislative or administrative interest" in Ms. Urbigkeit's decision-making. As noted
3 above, Carla Urbigkeit had conducted a criminal investigation in her capacity at OSP, in
4 which Ms. Billings was the named victim. According to OJCIN, trial of the criminal case
5 was still ongoing at time Ms. Billings delivered the gift to Ms. Urbigkeit. Mr. Staropoli's
6 response suggests that no "administrative interest" existed after the Indictment was
7 concluded. However, text messages between Ms. Urbigkeit and Ms. Billings on the day
8 the gift was delivered (4/24/18) expressly mention that there were upcoming court dates
9 for the trial, which suggests that Ms. Billings might reasonably still have had a "legislative
10 or administrative interest" in Ms. Urbigkeit's decision-making at the time. Moreover,
11 whether or not Ms. Billings had a "legislative and administrative interest" in Ms. Urbigkeit's
12 decision-making is not necessarily limited to the occurrence of possible future events in
13 this case. The text messages and other information indicate that Ms. Billings specifically
14 gifted Ms. Urbigkeit as a display of "gratitude" for her participation on the case after
15 regaining possession of the dump truck in hopes of reselling it. A 10/10/17 text message
16 from Ms. Urbigkeit indicates that she may also have been instrumental in enabling Ms.
17 Billings to do so. (The text states that she was "working on getting a release for [the dump]
18 truck so [Ms. Billings] can do whatever [she wants] to it.") As a result it appears that Ms.
19 Billings did have a "legislative or administrative interest" in Ms. Urbigkeit's decision-
20 making.

21

22 Some of the information provided appears to generally assert that the gift was of no
23 significant value. Mr. Staropoli's response on behalf of Ms. Urbigkeit merely stated that
24 "it was her impression that the jewelry was inexpensive and * * * might be identified as
25 artisan or even costume jewelry" and declined to provide any further information as to the
26 actual value of the items. However, the first-hand information provided directly to the
27 Commission investigator by Ms. Billings, who was the source of the gift, shows that Ms.
28 Billings purchased the bracelet and necklace at Fred Meyer for \$107, which exceeds the
29 \$50 limit in ORS 244.025.

30 //

31 //

1 To that end, even if Ms. Urbigkeit was unaware of the actual value at the time the gift was
2 given (as suggested in Mr. Staropoli's response), that fact is not relevant for the purpose
3 of applying ORS 244.025. The appropriate question is whether the value did in fact
4 exceed \$50, and it was Ms. Urbigkeit's obligation to determine the value of the items
5 before accepting. Her failure to do so would not excuse a violation.
6

7 The only other remaining question was whether the gift was actually accepted by Ms.
8 Urbigkeit in light of it eventually being returned to Ms. Billings. On the same day Ms.
9 Billings delivered the gift, Ms. Urbigkeit sent her a text message stating "THANK YOU SO
10 MUCH for the gifts. You really are too much and I love them!" (emphasis original) Other
11 information provided shows that the gift was returned to Ms. Billings *after* Ms. Urbigkeit
12 had been placed on administrative leave in connection with this matter, and that the two
13 were also unable to have any further contact. These facts appear to indicate that Ms.
14 Urbigkeit accepted the gift, despite it being later returned.
15

16 The available information indicates that Ms. Urbigkeit accepted a necklace and bracelet
17 in excess of the \$50 limitation in ORS 244.025 from Ms. Billings, who had a legislative or
18 administrative interest in Ms. Urbigkeit's decision-making in her capacity as an OSP
19 Trooper who was involved in a criminal case in which Ms. Billings was a named victim.
20 As a result, it appears that a preponderance of evidence exists to show that Carla
21 Urbigkeit violated ORS 244.025 on one (1) occasion as a result of accepting gifts with a
22 value exceeding \$50 (in the form of a bracelet and necklace) from a source who had a
23 legislative or administrative interest in her decision-making at the time.
24


25 **RECOMMENDATIONS:** The Commission should make preliminary finding that Carla
26 Urbigkeit committed one (1) violation of ORS 244.025 [Motion 10].
27

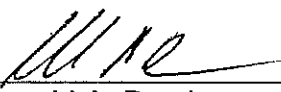
28 **ASSOCIATED DOCUMENTS:**

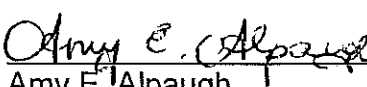
29 #PR1 Complaint and additional materials from Zachary Winston, received 7/11/18.

30 #PR2 Response from Carla Urbigkeit's attorney, Michael Staropoli, on Ms. Urbigkeit's
1 behalf, received 8/6/18.

- 1 #INV1 Memo summarizing phone contact with Misty Billings on 2/8/19, and image of Fred
2 Meyer receipt received from Ms. Billings on 2/27/19.
3 #INV2 Email communications and attachments exchanged with Ms. Urbigkeit's attorney,
4 Mr. Staropoli during investigation on 2/7/19-2/8/19.
5 #INV3 OJCIN eCourt information on Lincoln County Case No. 17CR58071 (SP17295396)
6 obtained via <https://www.courts.oregon.gov/services/online/Pages/ojcin.aspx>.
7 #INV4 Communications with OSP employees during investigation and redacted records
8 from OSP internal investigation file on Carla Urbigkeit received pursuant to
9 subpoena request on 2/25/19
10 #INV5 Email forwarded by attorney Daniel C. Lorenz, received on 8/21/18.

PREPARED BY  2/27/19
Hayley Weedn
Investigator
Date

APPROVED BY  2/27/19
Ronald A. Bersin
Executive Director
Date

REVIEWED BY  2/28/19
Amy E. Alpaugh
Assistant Attorney General
Date

Fred Meyer Jewelers

Store 00227
FRED MEYER JEWELERS
150 W. 20TH
NEWPORT OR 97365
(503) 265-0400

SALE TRANSACTION

Sales Associate: KAYLA
Customer: Misty DUNDAS 002278440

2040426 WIND&FIRE ST POLICE BADG	\$28.00
** (Was \$56.00 - Saving \$28.00)	
Coupon	-\$0.10
	\$27.90

2070407 A/V SS TANZANITE CIRCLE	\$79.99
** (Was \$175.00 - Saving \$95.01)	

Thank you for using your Loyalty Card

2 Items in Transaction
Total Tax Paid: \$0.00

TOTAL \$107.89

Authorization Code : 041026
ID: 013A416985F25942
AID: A0000000031010
CVV: Signature Verified

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OREGON GOVERNMENT ETHICS COMMISSION

INVESTIGATION

CASE NO: 18-170XDG

DATE: February 20, 2019

RESPONDENT: PALMER, Ron, City Councilor, City of Gold Hill

COMPLAINANT: ALFORD, Christine

RECOMMENDED ACTION: Make a Preliminary Finding of 1 violation of ORS 192.660(1) and 1 violation of ORS 192.660(2)

1 **SYNOPSIS:** Ron Palmer was a member of the city council for the City of Gold Hill
2 (City) when the events relevant to this investigation occurred. The focus of this
3 investigation was to determine if there was a preponderance of evidence to
4 indicate that members of the Gold Hill City Council, including Mr. Palmer, violated
5 the executive session provisions of Oregon Public Meetings law by discussing
6 unauthorized topics and failing to meet the statutory prerequisites prior to
7 discussing statutorily authorized topics.

8

9 The agenda for the 7/16/18 executive session cited two statutorily authorized
10 topics, ORS 192.660(2)(h) - to consult with counsel concerning the legal rights and
11 duties of a public body with regard to current litigation or litigation likely to be filed,
12 and ORS 192.660(2)(i) - to review and evaluate the employment-related
13 performance of an employee who does not request an open hearing.

14

15 Information is sufficient to indicate Ron Palmer participated in an executive session

1 of the Gold Hill City Council on 7/16/18 during which unauthorized topics were
2 discussed and statutory prerequisites were not met, in violation of ORS 192.660.

3

4 **RELEVANT STATUTES:** The following Oregon Revised Statutes and Oregon
5 Administrative Rules are applicable to the issues addressed herein:

6

7 **192.610 Definitions for ORS 192.610 to 192.690.** As used in ORS 192.610 to
8 192.690:

9

* * * * *

10 (2) "Executive session" means any meeting or part of a meeting of a governing
11 body which is closed to certain persons for deliberation on certain matters.

12 (3) "Governing body" means the members of any public body which consists of two
13 or more members with the authority to make decisions for or recommendations to
14 a public body on policy or administration.

15 (4) "Public body" means the state, any regional council, county, city or district, or
16 any municipal or public corporation, or any board, department, commission,
17 council, bureau, committee or subcommittee or advisory group or any agency
18 thereof.

19 (5) "Meeting" means the convening of a governing body of a public body for which
20 a quorum is required in order to make a decision or deliberate toward a decision
21 on any matter.

22

23 **192.660 Executive sessions permitted on certain matters; procedures; news**
24 **media representatives' attendance; limits.** (1) ORS 192.610 to 192.690 do not
25 prevent the governing body of a public body from holding executive session during
26 a regular, special or emergency meeting, after the presiding officer has identified
27 the authorization under ORS 192.610 to 192.690 for holding the executive session.

28 (2) The governing body of a public body may hold an executive session

29

* * * * *

30 (h) To consult with counsel concerning the legal rights and duties of a public

1 body with regard to current litigation or litigation likely to be filed.

2 (i) To review and evaluate the employment-related performance of the chief
3 executive officer of any public body, a public officer, employee or staff
4 member who does not request an open hearing.

5
6 **192.685 Additional enforcement of alleged violations of ORS 192.660.**

7 (1) Notwithstanding ORS 192.680, complaints of violations of ORS 192.660
8 alleged to have been committed by public officials may be made to the Oregon
9 Government Ethics Commission for review and investigation as provided by ORS
10 244.260 and for possible imposition of civil penalties as provided by ORS 244.350.

11
12 **244.350 Civil penalties; letter of reprimand or explanation.** (1) The Oregon
13 Government Ethics Commission may impose civil penalties not to exceed:

14 * * * * *

15 (2)(a) Except as provided in paragraph (b) of this subsection, the commission may
16 impose civil penalties not to exceed \$1,000 for violation of any provision of ORS
17 192.660.

18 (b) A civil penalty may not be imposed under this subsection if the violation
19 occurred as a result of the governing body of the public body acting upon the advice
20 of the public body's counsel.

21 * * * * *

22 (5) In lieu of or in conjunction with finding a violation of law or any resolution or
23 imposing a civil penalty under this section, the commission may issue a written
24 letter of reprimand, explanation or education.

25
26 **199-040-0030 Notice to Public Official under ORS 192.660(2)(b) or (i)(1)** In
27 order to afford to the chief executive officer of any public body, a public officer,
28 employee, staff member or individual agent the opportunity to request an open
29 hearing under ORS 192.660(2)(b) or (i), the public official must receive written
30 notice of the meeting no less than one business day or 24 hours, whichever is
31 greater, in advance of the meeting.

1 (2) At a minimum, the written notice shall include:

2 (a) Identification of the governing body before which the matter will be
3 considered;

4 (b) The time, date and location of the meeting;

5 (c) The purpose for which the governing body proposes to convene the
6 executive session, including the citation to the applicable section of ORS
7 192.660 and the fact that the governing body will be considering the
8 dismissal or disciplining of, hearing complaints or charges against, or
9 reviewing and evaluating the performance of the public official receiving the
10 notice;

11 (d) Information on how the public official may make a request for an open
12 hearing.

13 **199-040-0050 Consultation with Legal Counsel** (1) The purpose of this rule is
14 to provide guidance to governing bodies when the governing body holds an
15 executive session permitted by ORS 192.660(2)(h): "To consult with counsel
16 concerning the legal rights and duties of a public body with regard to current
17 litigation or litigation likely to be filed."

18 (2) In order to meet the requirements for an executive session permitted by ORS
19 192.660(2)(h), the attorney with whom the governing body is consulting must be
20 present at the executive session, either in person or by telephone or by other
21 concurrent means of oral or video electronic communication.

22

23 **INVESTIGATION:** The Oregon Government Ethics Commission (Commission)
24 initiated a preliminary review based on information in a signed complaint from
25 Christine Alford on 7/27/18 (#PR1). Christine Alford alleged that Ron Palmer and
26 three other members of the Gold Hill City Council may have violated executive
27 session provisions of Oregon Public Meetings law when participating in an
28 executive session on 7/16/18. The Commission found cause to investigate on

1 9/21/18 after considering the information developed in the preliminary review. The
2 focus of the investigation was to determine if there is sufficient evidence to indicate
3 that Ron Palmer participated in an executive session when topics not authorized
4 for executive sessions were discussed and for which prerequisites were not met.
5 Ron Palmer and Christine Alford have been notified of the Commission actions in
6 this matter. Both have been invited to provide any information that would assist
7 the Commission in conducting this investigation.

8
9 Ms. Alford's complaint is excerpted below:

10 "The meeting was called under ORS 192.660* * *[t]o consult with counsel
11 concerning the legal rights and duties of a public body with regard to current
12 litigation or litigation likely to be filed * * *[and] (t)o review and evaluate the
13 employment-related performance of the chief executive officer of any public
14 body, a public officer, employee or staff member who does not request an
15 open hearing."

16
17 "Regarding the claim that they are consulting an attorney, it's obvious that
18 no attorney is being contacted. In fact, the 'potential litigation' that they are
19 referring to* * *is the potential for the Water Billing Clerk * * * to sue the city
20 * * *. Secondly, the employee that they are discussing* * *was not notified
21 that his performance was being evaluated, was not given an opportunity to
22 have this heard in public." (#PR1)

23
24 Gold Hill's City Charter shows that the council has six councilors, each elected to
25 four year terms and a Mayor who is elected to a two year term. The City has a
26 "weak Mayor" form of governance, in which the Mayor presides over Council
27 meetings, but may only vote in the event of a tie vote of the councilors. (#PR2)

28
29 The sole item listed on the 7/16/18 agenda is an executive session to consult with
30 legal counsel regarding current litigation or litigation likely to be filed and to
31 evaluate the employment related performance of a chief executive officer, public

1 officer, employee or staff member who does not request an open hearing. (#PR1)

2

3 A review of the audio file shows that the meeting was convened as a public meeting
4 and roll call showed that four members of the City Council were present:
5 Councilors Dell, Canon, Palmer, and Tolman. The other two councilors were not
6 in attendance, nor was the Mayor. One of the staff members present announced
7 that the meeting had a quorum. In addition to the four City councilors, two staff
8 members were also present during this executive session, one of whom was the
9 recently hired city manager. The audio does not indicate that any attorney was
10 present. (#PR1)

11

12 The audio reveals that before convening the executive session, the presiding
13 officer cited ORS 192.640(3) as the authority for holding the executive session.
14 ORS 192.640(3) is a notice statute. No one announced the lawful basis or
15 statutory authority in ORS 192.660 for holding the executive session. (#PR1)

16

17 The topics discussed included the discontent and turnover of staff members, as
18 well as the conduct of an elected official and the employment related performance
19 of a second individual, neither of whom were present at this meeting. The
20 individuals under discussion were only referred to by their first names, but it
21 became clear that the elected official being discussed was the Mayor and the other
22 was a City employee. The executive session participants discussed their concerns
23 of possible litigation against the City due to the working conditions and internal
24 dysfunction. No pending or current litigation was discussed and there was no legal
25 counsel present at the meeting. (#PR1)

26

27 Following the executive session, the meeting re-convened into open session and
28 a motion was made and passed which directed the Mayor to turn over all City keys,
29 the information for City bank access, the security code to City Hall, and cease
30 further oversight of City employees and stop unilaterally using the services of the
31 City's attorney. (#PR1)

1 Commission staff requested copies of any notices of the 7/16/18 executive session
2 provided to the two individuals whose conduct was to be discussed, which would
3 have afforded them the opportunity to request a review in open session. No such
4 written notices were provided to the Mayor or the City employee. The City
5 Manager responded that the only written notice issued prior to the executive
6 session was the agenda posted at City Hall. His emails are excerpted below:

7
8 [O]nly Mayor Stanley was notified of the performance aspect of the
9 executive session. She declined to attend the meeting however. [The
10 employee] was not notified, nor did he attend. * * *

11
12 There was a written notice printed and posted at City Hall. The meeting
13 had been scheduled and discussed among Councilors & staff for 2-3 days.
14 The Mayor and 2 councilors chose not to attend the special meeting.”
15 (#PR3)

16
17 During the investigation, the complainant provided a copy of an email from Kristin
18 Wick, an agent for the City's insurance carrier. This email, which included a
19 forwarded email from an attorney at the League of Oregon Cities, was dated
20 7/12/18 and was addressed to the six members of the City Council at their City
21 email addresses. Councilor Palmer and the other councilors who participated in
22 the 7/16/18 executive session were included on this email.

23
24 The 7/12/18 email is excerpted below: (#INV1)

25
26 “It has been brought to my attention that an Executive Session was called
27 for tonight at 7:30 to discuss issues regarding the mayor and that no ORS
28 was identified in the notice nor one of the 14 Specific Reasons to hold an
29 Executive session stated. I reached out to the Attorney for the League of
30 Oregon Cities for her input to you all regarding the proper protocol for
31 holding Executive Sessions since this is out of my area of expertise. * * *

1 Please review the below and I would highly discourage that the meeting
2 take place tonight. It should be tabled until Council is educated on the
3 proper protocol for holding such meetings and review the appropriate
4 method for handling complaints or taking action against a council member.
5 * * * * *

6
7 It is extremely important that all Council Members are trained and up to date
8 on all aspects of their position and laws governing council
9 activities/responsibilities to avoid future or personal liability. * * * * * (#INV1)

10
11 Included in the email is a forwarded email from Patty Mulvihill, an attorney from the
12 League of Oregon Cities, written on 7/12/18 and addressed to "Kristen &
13 Christine". The attorney's email is excerpted below, with underline and bold as in
14 original.

15
16 I understand that the city of Gold Hill has some questions regarding
17 executive sessions and when they can legally be held. * * *

18
19 First, ORS 192.640(3) states that special meetings (including executive
20 sessions) shall not [be] held without at least 24 hours' notice to the
21 members of the governing body, the news media which have requested
22 notice and the general public. * * *

23
24 Second, executive sessions can only be held for 14 specific reasons
25 identified in ORS 192.660. Of the 14 reasons, 10 are applicable to city
26 council business.

27 * * * * *

28 2. To consider the dismissal or disciplining of, or to hear complaints
29 or charges brought against, a public officer (this does not include
30 elected officials), employee, staff member or individual agent who
31 does not request an open hearing.

1 *****

2 7. To consult with counsel concerning the legal rights and duties of
3 a public body with regard to current litigation or litigation likely to be
4 filed.

5 8. To review and evaluate the employment-related performance of
6 the chief executive officer of any public body, a public officer,
7 employee, or staff member who does not request an open hearing.

8 *****

9
10 Third, when holding an executive session, the notice of the executive
11 session must identify the specific reason allowed by statute to hold the
12 meeting. Here is a link to the League's Guide to Executive Sessions, which
13 contains sample notices for each of the 10 reasons a city may hold an
14 executive session. * * *

15
16 Fourth, if a council wishes to "discipline" a member of its own body, it has
17 limited authority to do so. Typically, the council may only issue a censure.
18 The city of Gold Hill's charter does not have any reference to the ability of
19 its council to censure one of its members. * * * * * (#INV1)

20
21 Ms. Wick and Ms. Mulvihill each confirmed to Commission staff that the email was
22 written by them on 7/12/18. Commission staff also provided a copy of this 7/12/18
23 email to Mr. Palmer and the other respondents. (#INV1a)

24
25 During the investigation period, Commission staff spoke with Mr. Palmer and
26 explained the Commission process, including the settlement option. Mr. Palmer
27 did not follow up with Commission staff concerning settlement during the
28 investigation period. (#INV2)

29
30 **CONCLUSIONS:** Ron Palmer was a member of the Gold Hill City Council during
31 the period relevant to this investigation and was a public official. The City of Gold

1 Hill is a public body and the City Council is its governing body [ORS 192.610(3)
2 and (4)].

3
4 As a member of the governing body of a public body, Mr. Palmer is required to
5 comply with the executive session provisions of Oregon Public Meetings law found
6 in ORS 192.660. Under ORS 192.685(1), complaints concerning violations of ORS
7 192.660 alleged to have been committed by public officials may be made to the
8 Oregon Government Ethics Commission for review and investigation as provided
9 by ORS 244.260.

10
11 An executive session is a meeting or part of a meeting held by a governing body
12 which is closed to certain persons for deliberation on certain matters. [ORS
13 192.610(2)] ORS 192.660 contains provisions allowing members of the governing
14 body of a public body to convene and participate in executive sessions to discuss
15 limited and specific topics once certain conditions and prerequisites are met.

16
17 Requirement to Identify Authority for Holding Executive Session

18 Before a governing body may hold an executive session, ORS 192.660(1) requires
19 the presiding officer to identify the authority under ORS 192.610 to 192.690 for
20 holding the executive session.

21
22 In this case, the presiding officer failed to identify, prior to convening the session,
23 the statutory basis for holding the executive session. Rather, the presiding officer
24 cited ORS 192.640(3) as the statutory basis for holding the executive session on
25 7/16/18. This is a notice provision which reads, "No special meeting shall be held
26 without at least 24 hours' notice to the members of the governing body, the news
27 media which have requested notice and the general public. * * *"

28 ///

29 ///

30 ///

1 Statutorily Authorized Topics and Prerequisites

2 The written agenda for the 7/16/18 executive session stated that the lawful topics
3 to be discussed were: 1) to consult with counsel concerning the legal rights and
4 duties of a public body with regard to current litigation or litigation likely to be filed
5 and 2) to review and evaluate the employment-related performance of the chief
6 executive officer of any public body, a public officer, employee or staff member
7 who does not request an open hearing. [ORS 192.660(2)(h) and (i)]

8
9 In order to meet the requirements for an executive session permitted by ORS
10 192.660(2)(h), the attorney with whom the governing body is consulting must be
11 present at the executive session, either in person or by telephone or by other
12 concurrent means of oral or video electronic communication. [OAR 199-040-0050]
13 In the executive session, council members did not consult with counsel about legal
14 rights and duties of the public body with regard to current litigation or litigation likely
15 to be filed. The public body's counsel was not physically present or present
16 through other means. Rather, council members simply talked among themselves.

17
18 A governing body is allowed to conduct an employment related performance
19 review of an employee who does not request an open hearing in executive session
20 per ORS 192.660(2)(i). A prerequisite for such an executive session is advance
21 notice to the subject of the performance review.

22 "In order to permit the affected person to request an 'open hearing,' the
23 governing body must give sufficient advance notice to the person of his or
24 her right to decide whether to require that the performance evaluation be
25 conducted in open session." [Attorney General's Public Records and
26 Meetings Manual, November 2014, p. 164 and OAR 199-040-0030]

27
28 No such notice was provided to the City employee whose employment related

1 performance was discussed at the 7/16/18 executive session.

2 A substantial topic discussed during the executive session was the conduct of the
3 current Mayor, an elected official, and it was the only topic that resulted in official
4 action by the Council. Following the executive session, the meeting re-convened
5 into open session and the members of the governing body voted to direct the
6 Mayor to turn over all City keys, the information for City bank access, the security
7 code to City Hall, cease further oversight of City employees and stop unilaterally
8 using the services of the City's attorney.

9

10 ORS 192.660(2)(i) allows a governing body to conduct an employment related
11 performance review of a chief executive officer, a public officer, employee or staff
12 member who does not request an open hearing. The Mayor is not employed by
13 the public body, she is an elected official, therefore ORS 192.660(2)(i), which was
14 the provision cited in this case as the statutory authority, is not applicable. It
15 appears that a majority of the Council met in executive session to discuss and
16 complain about the conduct of a fellow elected member of the governing body, a
17 topic not allowed under the executive session provisions cited on the agenda or
18 cited by the presiding officer prior to convening the executive session.

19

20 In conclusion, Ron Palmer, as a member of the Gold Hill City Council, participated
21 in an executive session held on 7/16/18 when topics were discussed which were
22 not statutorily authorized or for which prerequisites were not met:

23

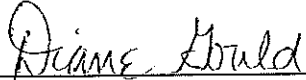
24 A preponderance of evidence indicates that Mr. Palmer and the other members of
25 the Gold Hill City Council participated in an executive session on 7/16/18, during
26 which he committed one violation of ORS 192.660(1) and one violation of ORS
27 192.660(2). (The multiple unauthorized topics discussed during executive session
28 will be counted as a single violation.)

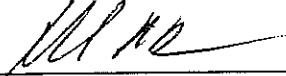
29 ///

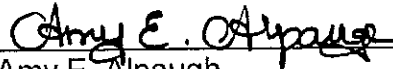
1 **RECOMMENDATIONS:** The Oregon Government Ethics Commission should
2 make a preliminary finding that Ron Palmer participated in an executive session
3 on 7/16/18 when 1 violation each of ORS 192.660(1) and ORS 192.660(2)
4 occurred. [Motion 10]
5

6 **ASSOCIATED DOCUMENTS:**

- 7 #PR1 Complaint and other material received 7/27/18 from Christine Alford.
8 #PR2 Gold Hill City Charter, Chapters IV and V, printed from City's website.
9 #PR3 Email responses to request for City records from City Manager,
10 received 8/21/18 and 8/22/18.
11 #INV1 Copy of email dated 7/12/18, from the City's insurance agent, which
12 included a 7/12/18 email from Patty Mulvilhill, League of Oregon
13 Cities attorney, addressed to city councilors at their city email
14 addresses. Received by Commission from complainant on 2/6/19.
15 #INV1a 2/12/19 emails from Kristen Wick and Patty Mulvihill confirming
16 authorship of email labeled #INV1.
17 #INV2 Investigator's notes summarizing contact with Mr. Palmer on 2/4/19.

PREPARED BY  2/20/19
Diane Gould Date
Investigator

APPROVED BY  2/20/19
Ronald A. Bersin Date
Executive Director

REVIEWED BY  2/20/19
Amy E. Alpaugh Date
Assistant Attorney General

OREGON GOVERNMENT ETHICS COMMISSION
INVESTIGATION

CASE NO: 18-172XDG

DATE: February 20, 2019

RESPONDENT: CANON, Thom, City Councilor, City of Gold Hill

COMPLAINANT: ALFORD, Christine

RECOMMENDED ACTION: Make a Preliminary Finding of 1 violation of ORS 192.660(1) and 1 violation of ORS 192.660(2)

1 **SYNOPSIS:** Thom Canon was a member of the city council for the City of Gold
2 Hill (City) when the events relevant to this investigation occurred. The focus of this
3 investigation was to determine if there was a preponderance of evidence to
4 indicate that members of the Gold Hill City Council, including Mr. Canon, violated
5 the executive session provisions of Oregon Public Meetings law by discussing
6 unauthorized topics and failing to meet the statutory prerequisites prior to
7 discussing statutorily authorized topics.

8

9 The agenda for the 7/16/18 executive session cited two statutorily authorized
10 topics, ORS 192.660(2)(h) - to consult with counsel concerning the legal rights and
11 duties of a public body with regard to current litigation or litigation likely to be filed,
12 and ORS 192.660(2)(i) - to review and evaluate the employment-related
13 performance of an employee who does not request an open hearing.

14

15 Information is sufficient to indicate Thom Canon participated in an executive

1 session of the Gold Hill City Council on 7/16/18 during which unauthorized topics
2 were discussed and statutory prerequisites were not met, in violation of ORS
3 192.660.

4

5 **RELEVANT STATUTES:** The following Oregon Revised Statutes and Oregon
6 Administrative Rules are applicable to the issues addressed herein:

7

8 **192.610 Definitions for ORS 192.610 to 192.690.** As used in ORS 192.610 to
9 192.690:

10

* * * * *

11 (2) "Executive session" means any meeting or part of a meeting of a governing
12 body which is closed to certain persons for deliberation on certain matters.

13 (3) "Governing body" means the members of any public body which consists of two
14 or more members with the authority to make decisions for or recommendations to
15 a public body on policy or administration.

16 (4) "Public body" means the state, any regional council, county, city or district, or
17 any municipal or public corporation, or any board, department, commission,
18 council, bureau, committee or subcommittee or advisory group or any agency
19 thereof.

20 (5) "Meeting" means the convening of a governing body of a public body for which
21 a quorum is required in order to make a decision or deliberate toward a decision
22 on any matter.

23

24 **192.660 Executive sessions permitted on certain matters; procedures; news**
25 **media representatives' attendance; limits.** (1) ORS 192.610 to 192.690 do not
26 prevent the governing body of a public body from holding executive session during
27 a regular, special or emergency meeting, after the presiding officer has identified
28 the authorization under ORS 192.610 to 192.690 for holding the executive session.

29 (2) The governing body of a public body may hold an executive session

30

* * * * *

1 (h) To consult with counsel concerning the legal rights and duties of a public
2 body with regard to current litigation or litigation likely to be filed.

3 (i) To review and evaluate the employment-related performance of the chief
4 executive officer of any public body, a public officer, employee or staff
5 member who does not request an open hearing.

6
7 **192.685 Additional enforcement of alleged violations of ORS 192.660.**

8 (1) Notwithstanding ORS 192.680, complaints of violations of ORS 192.660
9 alleged to have been committed by public officials may be made to the Oregon
10 Government Ethics Commission for review and investigation as provided by ORS
11 244.260 and for possible imposition of civil penalties as provided by ORS 244.350.

12
13 **244.350 Civil penalties; letter of reprimand or explanation.** (1) The Oregon
14 Government Ethics Commission may impose civil penalties not to exceed:

15 * * * * *

16 (2)(a) Except as provided in paragraph (b) of this subsection, the commission may
17 impose civil penalties not to exceed \$1,000 for violation of any provision of ORS
18 192.660.

19 (b) A civil penalty may not be imposed under this subsection if the violation
20 occurred as a result of the governing body of the public body acting upon the advice
21 of the public body's counsel.

22 * * * * *

23 (5) In lieu of or in conjunction with finding a violation of law or any resolution or
24 imposing a civil penalty under this section, the commission may issue a written
25 letter of reprimand, explanation or education.

26
27 **199-040-0030 Notice to Public Official under ORS 192.660(2)(b) or (i)(1)** In
28 order to afford to the chief executive officer of any public body, a public officer,
29 employee, staff member or individual agent the opportunity to request an open
30 hearing under ORS 192.660(2)(b) or (i), the public official must receive written
31 notice of the meeting no less than one business day or 24 hours, whichever is

1 greater, in advance of the meeting.

2 (2) At a minimum, the written notice shall include:

3 (a) Identification of the governing body before which the matter will be
4 considered;

5 (b) The time, date and location of the meeting;

6 (c) The purpose for which the governing body proposes to convene the
7 executive session, including the citation to the applicable section of ORS
8 192.660 and the fact that the governing body will be considering the
9 dismissal or disciplining of, hearing complaints or charges against, or
10 reviewing and evaluating the performance of the public official receiving the
11 notice;

12 (d) Information on how the public official may make a request for an open
13 hearing.

14 **199-040-0050 Consultation with Legal Counsel** (1) The purpose of this rule is
15 to provide guidance to governing bodies when the governing body holds an
16 executive session permitted by ORS 192.660(2)(h): "To consult with counsel
17 concerning the legal rights and duties of a public body with regard to current
18 litigation or litigation likely to be filed."

19 (2) In order to meet the requirements for an executive session permitted by ORS
20 192.660(2)(h), the attorney with whom the governing body is consulting must be
21 present at the executive session, either in person or by telephone or by other
22 concurrent means of oral or video electronic communication.

23

24 **INVESTIGATION:** The Oregon Government Ethics Commission (Commission)
25 initiated a preliminary review based on information in a signed complaint from
26 Christine Alford on 7/27/18 (#PR1). Christine Alford alleged that Thom Canon and
27 three other members of the Gold Hill City Council may have violated executive
28 session provisions of Oregon Public Meetings law when participating in an

1 executive session on 7/16/18. The Commission found cause to investigate on
2 9/21/18 after considering the information developed in the preliminary review. The
3 focus of the investigation was to determine if there is sufficient evidence to indicate
4 that Thom Canon participated in an executive session when topics not authorized
5 for executive sessions were discussed and for which prerequisites were not met.
6 Thom Canon and Christine Alford have been notified of the Commission actions in
7 this matter. Both have been invited to provide any information that would assist
8 the Commission in conducting this investigation.

9
10 Ms. Alford's complaint is excerpted below:

11 "The meeting was called under ORS 192.660* * *[t]o consult with counsel
12 concerning the legal rights and duties of a public body with regard to current
13 litigation or litigation likely to be filed * * *[and] (t)o review and evaluate the
14 employment-related performance of the chief executive officer of any public
15 body, a public officer, employee or staff member who does not request an
16 open hearing."

17
18 "Regarding the claim that they are consulting an attorney, it's obvious that
19 no attorney is being contacted. In fact, the 'potential litigation' that they are
20 referring to* * *is the potential for the Water Billing Clerk * * * to sue the city
21 * * *. Secondly, the employee that they are discussing* * *was not notified
22 that his performance was being evaluated, was not given an opportunity to
23 have this heard in public." (#PR1)

24
25 Gold Hill's City Charter shows that the council has six councilors, each elected to
26 four year terms and a Mayor who is elected to a two year term. The City has a
27 "weak Mayor" form of governance, in which the Mayor presides over Council
28 meetings, but may only vote in the event of a tie vote of the councilors. (#PR2)

29
30 The sole item listed on the 7/16/18 agenda is an executive session to consult with
31 legal counsel regarding current litigation or litigation likely to be filed and to

1 evaluate the employment related performance of a chief executive officer, public
2 officer, employee or staff member who does not request an open hearing. (#PR1)

3

4 A review of the audio file shows that the meeting was convened as a public meeting
5 and roll call showed that four members of the City Council were present:
6 Councilors Dell, Canon, Palmer, and Tolman. The other two councilors were not
7 in attendance, nor was the Mayor. One of the staff members present announced
8 that the meeting had a quorum. In addition to the four City councilors, two staff
9 members were also present during this executive session, one of whom was the
10 recently hired city manager. The audio does not indicate that any attorney was
11 present. (#PR1)

12

13 The audio reveals that before convening the executive session, the presiding
14 officer cited ORS 192.640(3) as the authority for holding the executive session.
15 ORS 192.640(3) is a notice statute. No one announced the lawful basis or
16 statutory authority in ORS 192.660 for holding the executive session. (#PR1)

17

18 The topics discussed included the discontent and turnover of staff members, as
19 well as the conduct of an elected official and the employment related performance
20 of a second individual, neither of whom were present at this meeting. The
21 individuals under discussion were only referred to by their first names, but it
22 became clear that the elected official being discussed was the Mayor and the other
23 was a City employee. The executive session participants discussed their concerns
24 of possible litigation against the City due to the working conditions and internal
25 dysfunction. No pending or current litigation was discussed and there was no legal
26 counsel present at the meeting. (#PR1)

27

28 Following the executive session, the meeting re-convened into open session and
29 a motion was made and passed which directed the Mayor to turn over all City keys,
30 the information for City bank access, the security code to City Hall, and cease
31 further oversight of City employees and stop unilaterally using the services of the

1 City's attorney. (#PR1)

2
3 Commission staff requested copies of any notices of the 7/16/18 executive session
4 provided to the two individuals whose conduct was to be discussed, which would
5 have afforded them the opportunity to request a review in open session. No such
6 written notices were provided to the Mayor or the City employee. The City
7 Manager responded that the only written notice issued prior to the executive
8 session was the agenda posted at City Hall. His emails are excerpted below:

9
10 "[O]nly Mayor Stanley was notified of the performance aspect of the
11 executive session. She declined to attend the meeting however. [The
12 employee] was not notified, nor did he attend. * * *

13
14 There was a written notice printed and posted at City Hall. The meeting
15 had been scheduled and discussed among Councilors & staff for 2-3 days.
16 The Mayor and 2 councilors chose not to attend the special meeting."
17 (#PR3)

18
19 During the investigation, the complainant provided a copy of an email from Kristin
20 Wick, an agent for the City's insurance carrier. This email, which included a
21 forwarded email from an attorney at the League of Oregon Cities, was dated
22 7/12/18 and was addressed to the six members of the City Council at their City
23 email addresses. Councilor Canon and the other councilors who participated in
24 the 7/16/18 executive session were included on this email.

25
26 The 7/12/18 email is excerpted below: (#INV1)

27
28 "It has been brought to my attention that an Executive Session was called
29 for tonight at 7:30 to discuss issues regarding the mayor and that no ORS
30 was identified in the notice nor one of the 14 Specific Reasons to hold an
31 Executive session stated. I reached out to the Attorney for the League of

1 Oregon Cities for her input to you all regarding the proper protocol for
2 holding Executive Sessions since this is out of my area of expertise. * * *

3 Please review the below and I would highly discourage that the meeting
4 take place tonight. It should be tabled until Council is educated on the
5 proper protocol for holding such meetings and review the appropriate
6 method for handling complaints or taking action against a council member.

7 * * * * *

8
9 It is extremely important that all Council Members are trained and up to date
10 on all aspects of their position and laws governing council
11 activities/responsibilities to avoid future or personal liability. * * * * *(#INV1)

12
13 Included in the email is a forwarded email from Patty Mulvihill, an attorney from the
14 League of Oregon Cities, written on 7/12/18 and addressed to "Kristen &
15 Christine". The attorney's email is excerpted below, with underline and bold as in
16 original.

17
18 I understand that the city of Gold Hill has some questions regarding
19 executive sessions and when they can legally be held. * * *

20
21 First, ORS 192.640(3) states that special meetings (including executive
22 sessions) shall not [be] held without at least 24 hours' notice to the
23 members of the governing body, the news media which have requested
24 notice and the general public. * * *

25
26 Second, executive sessions can only be held for 14 specific reasons
27 identified in ORS 192.660. Of the 14 reasons, 10 are applicable to city
28 council business.

29 * * * * *

30 2. To consider the dismissal or disciplining of, or to hear complaints
31 or charges brought against, a public officer (this does not include

1 elected officials), employee, staff member or individual agent who
2 does not request an open hearing.

3 * * * * *

4 7. To consult with counsel concerning the legal rights and duties of
5 a public body with regard to current litigation or litigation likely to be
6 filed.

7 8. To review and evaluate the employment-related performance of
8 the chief executive officer of any public body, a public officer,
9 employee, or staff member who does not request an open hearing.

10 * * * * *

11
12 Third, when holding an executive session, the notice of the executive
13 session must identify the specific reason allowed by statute to hold the
14 meeting. Here is a link to the League's Guide to Executive Sessions, which
15 contains sample notices for each of the 10 reasons a city may hold an
16 executive session. * * *

17
18 Fourth, if a council wishes to "discipline" a member of its own body, it has
19 limited authority to do so. Typically, the council may only issue a censure.
20 The city of Gold Hill's charter does not have any reference to the ability of
21 its council to censure one of its members. * * * * * (#INV1)

22
23 Ms. Wick and Ms. Mulvihill each confirmed to Commission staff that the email was
24 written by them on 7/12/18. Commission staff also provided a copy of this 7/12/18
25 email to Mr. Canon and the other respondents. (#INV1a)

26
27 During the investigation period, Mr. Canon told Commission staff that he is no
28 longer a City councilor. Staff explained the Commission process during the
29 investigation period with Mr. Canon, including the settlement option. Mr. Canon
30 did not respond to follow up emails concerning possible settlement during the
31 investigation phase. (#INV2)

1 **CONCLUSIONS:** Thom Canon was a member of the Gold Hill City Council during
2 the period relevant to this investigation and was a public official. The City of Gold
3 Hill is a public body and the City Council is its governing body [ORS 192.610(3)
4 and (4)].

5
6 As a member of the governing body of a public body, Mr. Canon is required to
7 comply with the executive session provisions of Oregon Public Meetings law found
8 in ORS 192.660. Under ORS 192.685(1), complaints concerning violations of ORS
9 192.660 alleged to have been committed by public officials may be made to the
10 Oregon Government Ethics Commission for review and investigation as provided
11 by ORS 244.260.

12
13 An executive session is a meeting or part of a meeting held by a governing body
14 which is closed to certain persons for deliberation on certain matters. [ORS
15 192.610(2)] ORS 192.660 contains provisions allowing members of the governing
16 body of a public body to convene and participate in executive sessions to discuss
17 limited and specific topics once certain conditions and prerequisites are met.

18
19 Requirement to Identify Authority for Holding Executive Session

20 Before a governing body may hold an executive session, ORS 192.660(1) requires
21 the presiding officer to identify the authority under ORS 192.610 to 192.690 for
22 holding the executive session.

23
24 In this case, the presiding officer failed to identify, prior to convening the session,
25 the statutory basis for holding the executive session. Rather, the presiding officer
26 cited ORS 192.640(3) as the statutory basis for holding the executive session on
27 7/16/18. This is a notice provision which reads, "No special meeting shall be held
28 without at least 24 hours' notice to the members of the governing body, the news
29 media which have requested notice and the general public. * * *"

30 ///

1 Statutorily Authorized Topics and Prerequisites

2 The written agenda for the 7/16/18 executive session stated that the lawful topics
3 to be discussed were: 1) to consult with counsel concerning the legal rights and
4 duties of a public body with regard to current litigation or litigation likely to be filed
5 and 2) to review and evaluate the employment-related performance of the chief
6 executive officer of any public body, a public officer, employee or staff member
7 who does not request an open hearing. [ORS 192.660(2)(h) and (i)]

8

9 In order to meet the requirements for an executive session permitted by ORS
10 192.660(2)(h), the attorney with whom the governing body is consulting must be
11 present at the executive session, either in person or by telephone or by other
12 concurrent means of oral or video electronic communication. [OAR 199-040-0050]
13 In the executive session, council members did not consult with counsel about legal
14 rights and duties of the public body with regard to current litigation or litigation likely
15 to be filed. The public body's counsel was not physically present or present
16 through other means. Rather, council members simply talked among themselves.

17

18 A governing body is allowed to conduct an employment related performance
19 review of an employee who does not request an open hearing in executive session
20 per ORS 192.660(2)(i). A prerequisite for such an executive session is advance
21 notice to the subject of the performance review.

22 "In order to permit the affected person to request an 'open hearing,' the
23 governing body must give sufficient advance notice to the person of his or
24 her right to decide whether to require that the performance evaluation be
25 conducted in open session." [Attorney General's Public Records and
26 Meetings Manual, November 2014, p. 164 and OAR 199-040-0030]

27 No such notice was provided to the City employee whose employment related
28 performance was discussed at the 7/16/18 executive session.

1 A substantial topic discussed during the executive session was the conduct of the
2 current Mayor, an elected official, and it was the only topic that resulted in official
3 action by the Council. Following the executive session, the meeting re-convened
4 into open session and the members of the governing body voted to direct the
5 Mayor to turn over all City keys, the information for City bank access, the security
6 code to City Hall, cease further oversight of City employees and stop unilaterally
7 using the services of the City's attorney.

8

9 ORS 192.660(2)(i) allows a governing body to conduct an employment related
10 performance review of a chief executive officer, a public officer, employee or staff
11 member who does not request an open hearing. The Mayor is not employed by
12 the public body, she is an elected official, therefore ORS 192.660(2)(i), which was
13 the provision cited in this case as the statutory authority, is not applicable. It
14 appears that a majority of the Council met in executive session to discuss and
15 complain about the conduct of a fellow elected member of the governing body, a
16 topic not allowed under the executive session provisions cited on the agenda or
17 cited by the presiding officer prior to convening the executive session.

18

19 In conclusion, Thom Canon, as a member of the Gold Hill City Council, participated
20 in an executive session held on 7/16/18 when topics were discussed which were
21 not statutorily authorized or for which prerequisites were not met:

22

23 A preponderance of evidence indicates that Mr. Canon and the other members of
24 the Gold Hill City Council participated in an executive session on 7/16/18, during
25 which he committed one violation of ORS 192.660(1) and one violation of ORS
26 192.660(2). (The multiple unauthorized topics discussed during executive session
27 will be counted as a single violation.)

28 ///

29 ///

1 **RECOMMENDATIONS:** The Oregon Government Ethics Commission should
2 make a preliminary finding that Thom Canon participated in an executive session
3 on 7/16/18 when 1 violation each of ORS 192.660(1) and ORS 192.660(2)
4 occurred. [Motion 10]

5
6 **ASSOCIATED DOCUMENTS:**

- 7 #PR1 Complaint and other material received 7/27/18 from Christine Alford.
8 #PR2 Gold Hill City Charter, Chapters IV and V, printed from City's website.
9 #PR3 Email responses to request for City records from City Manager,
10 received 8/21/18 and 8/22/18.
11 #INV1 Copy of email dated 7/12/18, from the City's insurance agent, which
12 included a 7/12/18 email from Patty Mulvihill, League of Oregon
13 Cities attorney, addressed to city councilors at their city email
14 addresses. Received by Commission from complainant on 2/6/19.
15 #INV1a 2/12/19 emails from Kristen Wick and Patty Mulvihill confirming
16 authorship of email labeled #INV1.
17 #INV2 Investigator's notes summarizing contact with Mr. Canon on 2/4/19
18 and follow up emails dated 2/4/19 and 2/6/19.

PREPARED BY *Diane Gould* 2/20/19
Diane Gould Date
Investigator

APPROVED BY *Ronald A. Bersin* 2/20/19
Ronald A. Bersin Date
Executive Director

REVIEWED BY *Amy E. Alpaugh* 2/20/19
Amy E. Alpaugh Date
Assistant Attorney General

OREGON GOVERNMENT ETHICS COMMISSION
INVESTIGATION

CASE NO: 18-173XDG

DATE: February 20, 2019

RESPONDENT: TOLMAN, Shannon, City Councilor, City of Gold Hill

COMPLAINANT: ALFORD, Christine

RECOMMENDED ACTION: Make a Preliminary Finding of 1 violation of ORS 192.660(1) and 1 violation of ORS 192.660(2)

1 **SYNOPSIS:** Shannon Tolman was a member of the city council for the City of
2 Gold Hill (City) when the events relevant to this investigation occurred. The focus
3 of this investigation was to determine if there was a preponderance of evidence to
4 indicate that members of the Gold Hill City Council, including Mr. Tolman, violated
5 the executive session provisions of Oregon Public Meetings law by discussing
6 unauthorized topics and failing to meet the statutory prerequisites prior to
7 discussing statutorily authorized topics.

8

9 The agenda for the 7/16/18 executive session cited two statutorily authorized
10 topics, ORS 192.660(2)(h) - to consult with counsel concerning the legal rights and
11 duties of a public body with regard to current litigation or litigation likely to be filed,
12 and ORS 192.660(2)(i) - to review and evaluate the employment-related
13 performance of an employee who does not request an open hearing.

14

15 Information is sufficient to indicate Shannon Tolman participated in an executive

1 session of the Gold Hill City Council on 7/16/18 during which unauthorized topics
2 were discussed and statutory prerequisites were not met, in violation of ORS
3 192.660.

4
5 **RELEVANT STATUTES:** The following Oregon Revised Statutes and Oregon
6 Administrative Rules are applicable to the issues addressed herein:

7
8 **192.610 Definitions for ORS 192.610 to 192.690.** As used in ORS 192.610 to
9 192.690:

10 * * * * *

11 (2) "Executive session" means any meeting or part of a meeting of a governing
12 body which is closed to certain persons for deliberation on certain matters.

13 (3) "Governing body" means the members of any public body which consists of two
14 or more members with the authority to make decisions for or recommendations to
15 a public body on policy or administration.

16 (4) "Public body" means the state, any regional council, county, city or district, or
17 any municipal or public corporation, or any board, department, commission,
18 council, bureau, committee or subcommittee or advisory group or any agency
19 thereof.

20 (5) "Meeting" means the convening of a governing body of a public body for which
21 a quorum is required in order to make a decision or deliberate toward a decision
22 on any matter.

23
24 **192.660 Executive sessions permitted on certain matters; procedures; news
25 media representatives' attendance; limits.** (1) ORS 192.610 to 192.690 do not
26 prevent the governing body of a public body from holding executive session during
27 a regular, special or emergency meeting, after the presiding officer has identified
28 the authorization under ORS 192.610 to 192.690 for holding the executive session.

29 (2) The governing body of a public body may hold an executive session

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1 (h) To consult with counsel concerning the legal rights and duties of a public
2 body with regard to current litigation or litigation likely to be filed.

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9 alleged to have been committed by public officials may be made to the Oregon
10 Government Ethics Commission for review and investigation as provided by ORS
11 244.260 and for possible imposition of civil penalties as provided by ORS 244.350.
12

13 **244.350 Civil penalties; letter of reprimand or explanation.** (1) The Oregon
14 Government Ethics Commission may impose civil penalties not to exceed:

15 * * * * *

16 (2)(a) Except as provided in paragraph (b) of this subsection, the commission may
17 impose civil penalties not to exceed \$1,000 for violation of any provision of ORS
18 192.660.

19 (b) A civil penalty may not be imposed under this subsection if the violation
20 occurred as a result of the governing body of the public body acting upon the advice
21 of the public body's counsel.

22 * * * * *

23 (5) In lieu of or in conjunction with finding a violation of law or any resolution or
24 imposing a civil penalty under this section, the commission may issue a written
25 letter of reprimand, explanation or education.
26

27 **199-040-0030 Notice to Public Official under ORS 192.660(2)(b) or (i)(1)** In
28 order to afford to the chief executive officer of any public body, a public officer,
29 employee, staff member or individual agent the opportunity to request an open
30 hearing under ORS 192.660(2)(b) or (i), the public official must receive written
31 notice of the meeting no less than one business day or 24 hours, whichever is

1 greater, in advance of the meeting.

2 (2) At a minimum, the written notice shall include:

3 (a) Identification of the governing body before which the matter will be
4 considered;

5 (b) The time, date and location of the meeting;

6 (c) The purpose for which the governing body proposes to convene the
7 executive session, including the citation to the applicable section of ORS
8 192.660 and the fact that the governing body will be considering the
9 dismissal or disciplining of, hearing complaints or charges against, or
10 reviewing and evaluating the performance of the public official receiving the
11 notice;

12 (d) Information on how the public official may make a request for an open
13 hearing.

14 **199-040-0050 Consultation with Legal Counsel** (1) The purpose of this rule is
15 to provide guidance to governing bodies when the governing body holds an
16 executive session permitted by ORS 192.660(2)(h): "To consult with counsel
17 concerning the legal rights and duties of a public body with regard to current
18 litigation or litigation likely to be filed."

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21 present at the executive session, either in person or by telephone or by other
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24 **INVESTIGATION:** The Oregon Government Ethics Commission (Commission)
25 initiated a preliminary review based on information in a signed complaint from
26 Christine Alford on 7/27/18 (#PR1). Christine Alford alleged that Shannon Tolman
27 and three other members of the Gold Hill City Council may have violated executive
28 session provisions of Oregon Public Meetings law when participating in an

1 executive session on 7/16/18. The Commission found cause to investigate on
2 9/21/18 after considering the information developed in the preliminary review. The
3 focus of the investigation was to determine if there is sufficient evidence to indicate
4 that Shannon Tolman participated in an executive session when topics not
5 authorized for executive sessions were discussed and for which prerequisites were
6 not met. Shannon Tolman and Christine Alford have been notified of the
7 Commission actions in this matter. Both have been invited to provide any
8 information that would assist the Commission in conducting this investigation.

9
10 Ms. Alford's complaint is excerpted below:

11 "The meeting was called under ORS 192.660* * *[t]o consult with counsel
12 concerning the legal rights and duties of a public body with regard to current
13 litigation or litigation likely to be filed * * *[and] (t)o review and evaluate the
14 employment-related performance of the chief executive officer of any public
15 body, a public officer, employee or staff member who does not request an
16 open hearing."

17
18 "Regarding the claim that they are consulting an attorney, it's obvious that
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20 referring to* * *is the potential for the Water Billing Clerk * * * to sue the city
21 * * *. Secondly, the employee that they are discussing* * *was not notified
22 that his performance was being evaluated, was not given an opportunity to
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25 Gold Hill's City Charter shows that the council has six councilors, each elected to
26 four year terms and a Mayor who is elected to a two year term. The City has a
27 "weak Mayor" form of governance, in which the Mayor presides over Council
28 meetings, but may only vote in the event of a tie vote of the councilors. (#PR2)

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31 legal counsel regarding current litigation or litigation likely to be filed and to

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5 and roll call showed that four members of the City Council were present:
6 Councilors Dell, Canon, Palmer, and Tolman. The other two councilors were not
7 in attendance, nor was the Mayor. One of the staff members present announced
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9 members were also present during this executive session, one of whom was the
10 recently hired city manager. The audio does not indicate that any attorney was
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14 officer cited ORS 192.640(3) as the authority for holding the executive session.
15 ORS 192.640(3) is a notice statute. No one announced the lawful basis or
16 statutory authority in ORS 192.660 for holding the executive session. (#PR1)

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18 The topics discussed included the discontent and turnover of staff members, as
19 well as the conduct of an elected official and the employment related performance
20 of a second individual, neither of whom were present at this meeting. The
21 individuals under discussion were only referred to by their first names, but it
22 became clear that the elected official being discussed was the Mayor and the other
23 was a City employee. The executive session participants discussed their concerns
24 of possible litigation against the City due to the working conditions and internal
25 dysfunction. No pending or current litigation was discussed and there was no legal
26 counsel present at the meeting. (#PR1)

27
28 Following the executive session, the meeting re-convened into open session and
29 a motion was made and passed which directed the Mayor to turn over all City keys,
30 the information for City bank access, the security code to City Hall, and cease
31 further oversight of City employees and stop unilaterally using the services of the

1 City's attorney. (#PR1)

2
3 Commission staff requested copies of any notices of the 7/16/18 executive session
4 provided to the two individuals whose conduct was to be discussed, which would
5 have afforded them the opportunity to request a review in open session. No such
6 written notices were provided to the Mayor or the City employee. The City
7 Manager responded that the only written notice issued prior to the executive
8 session was the agenda posted at City Hall. His emails are excerpted below:

9
10 "[O]nly Mayor Stanley was notified of the performance aspect of the
11 executive session. She declined to attend the meeting however. [The
12 employee] was not notified, nor did he attend. * * *

13
14 There was a written notice printed and posted at City Hall. The meeting
15 had been scheduled and discussed among Councilors & staff for 2-3 days.
16 The Mayor and 2 councilors chose not to attend the special meeting."
17 (#PR3)

18
19 During the investigation, the complainant provided a copy of an email from Kristin
20 Wick, an agent for the City's insurance carrier. This email, which included a
21 forwarded email from an attorney at the League of Oregon Cities, was dated
22 7/12/18 and was addressed to the six members of the City Council at their City
23 email addresses. Councilor Tolman and the other councilors who participated in
24 the 7/16/18 executive session were included on this email.

25
26 The 7/12/18 email is excerpted below: (#INV1)

27
28 "It has been brought to my attention that an Executive Session was called
29 for tonight at 7:30 to discuss issues regarding the mayor and that no ORS
30 was identified in the notice nor one of the 14 Specific Reasons to hold an
31 Executive session stated. I reached out to the Attorney for the League of

1 Oregon Cities for her input to you all regarding the proper protocol for
2 holding Executive Sessions since this is out of my area of expertise. * * *

3 Please review the below and I would highly discourage that the meeting
4 take place tonight. It should be tabled until Council is educated on the
5 proper protocol for holding such meetings and review the appropriate
6 method for handling complaints or taking action against a council member.
7 * * * * *

8
9 It is extremely important that all Council Members are trained and up to date
10 on all aspects of their position and laws governing council
11 activities/responsibilities to avoid future or personal liability. * * * * * (#INV1)

12
13 Included in the email is a forwarded email from Patty Mulvihill, an attorney from the
14 League of Oregon Cities, written on 7/12/18 and addressed to "Kristen &
15 Christine". The attorney's email is excerpted below, with underline and bold as in
16 original.

17
18 I understand that the city of Gold Hill has some questions regarding
19 executive sessions and when they can legally be held. * * *

20
21 First, ORS 192.640(3) states that special meetings (including executive
22 sessions) shall **not** [be] held without at least 24 hours' notice to the
23 members of the governing body, the news media which have requested
24 notice and the general public. * * *

25
26 Second, executive sessions can **only** be held for 14 specific reasons
27 identified in ORS 192.660. Of the 14 reasons, 10 are applicable to city
28 council business.

29 * * * * *

30 2. To consider the dismissal or disciplining of, or to hear complaints
31 or charges brought against, a public officer (this does **not** include

1 elected officials), employee, staff member or individual agent who
2 does not request an open hearing.

3 * * * * *

4 7. To consult with counsel concerning the legal rights and duties of
5 a public body with regard to current litigation or litigation likely to be
6 filed.

7 8. To review and evaluate the employment-related performance of
8 the chief executive officer of any public body, a public officer,
9 employee, or staff member who does not request an open hearing.

10 * * * * *

11
12 Third, when holding an executive session, the notice of the executive
13 session must identify the specific reason allowed by statute to hold the
14 meeting. Here is a link to the League's Guide to Executive Sessions, which
15 contains sample notices for each of the 10 reasons a city may hold an
16 executive session. * * *

17
18 Fourth, if a council wishes to "discipline" a member of its own body, it has
19 limited authority to do so. Typically, the council may only issue a censure.
20 The city of Gold Hill's charter does not have any reference to the ability of
21 its council to censure one of its members. * * * * * (#INV1)

22
23 Ms. Wick and Ms. Mulvihill each confirmed to Commission staff that the email was
24 written by them on 7/12/18. Commission staff also provided a copy of this 7/12/18
25 email to Mr. Tolman and the other respondents. (#INV1a)

26
27 During the investigation period, Mr. Tolman told Commission staff that he is no
28 longer a City councilor. He stated that he does not remember receiving any email
29 with advice from the City's insurance carrier or the attorney from the League of
30 Oregon Cities. He did, however, remember that the councilors postponed the
31 original executive session and rescheduled it later, after the proper notice had

1 been given. Mr. Tolman stated that whoever disclosed the recording of the
2 executive session should be held accountable for violating the confidentiality of the
3 session. He believes that the audio record of the executive session should never
4 have been released and that even if the executive session provisions may have
5 been violated, no such determination had been made prior to the release of the
6 audio file, and therefore its release was improper. (#INV2)

7
8 **CONCLUSIONS:** Shannon Tolman was a member of the Gold Hill City Council
9 during the period relevant to this investigation and was a public official. The City
10 of Gold Hill is a public body and the City Council is its governing body [ORS
11 192.610(3) and (4)].

12
13 As a member of the governing body of a public body, Mr. Tolman is required to
14 comply with the executive session provisions of Oregon Public Meetings law found
15 in ORS 192.660. Under ORS 192.685(1), complaints concerning violations of ORS
16 192.660 alleged to have been committed by public officials may be made to the
17 Oregon Government Ethics Commission for review and investigation as provided
18 by ORS 244.260.

19
20 An executive session is a meeting or part of a meeting held by a governing body
21 which is closed to certain persons for deliberation on certain matters. [ORS
22 192.610(2)] ORS 192.660 contains provisions allowing members of the governing
23 body of a public body to convene and participate in executive sessions to discuss
24 limited and specific topics once certain conditions and prerequisites are met.

25
26 Requirement to Identify Authority for Holding Executive Session

27 Before a governing body may hold an executive session, ORS 192.660(1) requires
28 the presiding officer to identify the authority under ORS 192.610 to 192.690 for
29 holding the executive session.

30
31 In this case, the presiding officer failed to identify, prior to convening the session,

1 the statutory basis for holding the executive session. Rather, the presiding officer
2 cited ORS 192.640(3) as the statutory basis for holding the executive session on
3 7/16/18. This is a notice provision which reads, "No special meeting shall be held
4 without at least 24 hours' notice to the members of the governing body, the news
5 media which have requested notice and the general public. * * *"

6

7 Statutorily Authorized Topics and Prerequisites

8 The written agenda for the 7/16/18 executive session stated that the lawful topics
9 to be discussed were: 1) to consult with counsel concerning the legal rights and
10 duties of a public body with regard to current litigation or litigation likely to be filed
11 and 2) to review and evaluate the employment-related performance of the chief
12 executive officer of any public body, a public officer, employee or staff member
13 who does not request an open hearing. [ORS 192.660(2)(h) and (i)]

14

15 In order to meet the requirements for an executive session permitted by ORS
16 192.660(2)(h), the attorney with whom the governing body is consulting must be
17 present at the executive session, either in person or by telephone or by other
18 concurrent means of oral or video electronic communication. [OAR 199-040-0050]
19 In the executive session, council members did not consult with counsel about legal
20 rights and duties of the public body with regard to current litigation or litigation likely
21 to be filed. The public body's counsel was not physically present or present
22 through other means. Rather, council members simply talked among themselves.

23 A governing body is allowed to conduct an employment related performance
24 review of an employee who does not request an open hearing in executive session
25 per ORS 192.660(2)(i). A prerequisite for such an executive session is advance
26 notice to the subject of the performance review.

27 "In order to permit the affected person to request an 'open hearing,' the
28 governing body must give sufficient advance notice to the person of his or
29 her right to decide whether to require that the performance evaluation be

1 conducted in open session.” [Attorney General’s Public Records and
2 Meetings Manual, November 2014, p. 164 and OAR 199-040-0030]

3 No such notice was provided to the City employee whose employment related
4 performance was discussed at the 7/16/18 executive session.

5 A substantial topic discussed during the executive session was the conduct of the
6 current Mayor, an elected official, and it was the only topic that resulted in official
7 action by the Council. Following the executive session, the meeting re-convened
8 into open session and the members of the governing body voted to direct the
9 Mayor to turn over all City keys, the information for City bank access, the security
10 code to City Hall, cease further oversight of City employees and stop unilaterally
11 using the services of the City’s attorney.

12

13 ORS 192.660(2)(i) allows a governing body to conduct an employment related
14 performance review of a chief executive officer, a public officer, employee or staff
15 member who does not request an open hearing. The Mayor is not employed by
16 the public body, she is an elected official, therefore ORS 192.660(2)(i), which was
17 the provision cited in this case as the statutory authority, is not applicable. It
18 appears that a majority of the Council met in executive session to discuss and
19 complain about the conduct of a fellow elected member of the governing body, a
20 topic not allowed under the executive session provisions cited on the agenda or
21 cited by the presiding officer prior to convening the executive session.

22

23 In conclusion, Shannon Tolman, as a member of the Gold Hill City Council,
24 participated in an executive session held on 7/16/18 when topics were discussed
25 which were not statutorily authorized or for which prerequisites were not met:

26

27 A preponderance of evidence indicates that Mr. Tolman and the other members of
28 the Gold Hill City Council participated in an executive session on 7/16/18, during
29 which he committed one violation of ORS 192.660(1) and one violation of ORS

1 192.660(2). (The multiple unauthorized topics discussed during executive session
2 will be counted as a single violation.)

3

4 **RECOMMENDATIONS:** The Oregon Government Ethics Commission should
5 make a preliminary finding that Shannon Tolman participated in an executive
6 session on 7/16/18 when 1 violation each of ORS 192.660(1) and ORS 192.660(2)
7 occurred. [Motion 10]

8

9 **ASSOCIATED DOCUMENTS:**

- 10 #PR1 Complaint and other material received 7/27/18 from Christine Alford.
11 #PR2 Gold Hill City Charter, Chapters IV and V, printed from City's website.
12 #PR3 Email responses to request for City records from City Manager,
13 received 8/21/18 and 8/22/18.
14 #INV1 Copy of email dated 7/12/18, from the City's insurance agent, which
15 included a 7/12/18 email from Patty Mulvilhill, League of Oregon
16 Cities attorney, addressed to city councilors at their city email
17 addresses. Received by Commission from complainant on 2/6/19.
18 #INV1a 2/12/19 emails from Kristen Wick and Patty Mulvihill confirming
19 authorship of email labeled #INV1.
20 #INV2 Investigator's notes summarizing contact with Mr. Tolman on 2/4/19.

PREPARED BY Diane Gould 2/20/19
Diane Gould Date
Investigator

APPROVED BY Ronald A. Bersin 2/20/19
Ronald A. Bersin Date
Executive Director

REVIEWED BY Amy E. Alpaugh 2/20/19
Amy E. Alpaugh Date
Assistant Attorney General

OREGON GOVERNMENT ETHICS COMMISSION

INVESTIGATION

CASE NO: 18-176EHW

DATE: 02/26/2019

RESPONDENT: BROWN, Jim, Mayor, City of Haines

COMPLAINANT: WHITED, Lisa, City Councilor, City of Haines

RECOMMENDED ACTION: Make a Preliminary Finding of 2 Violations of ORS 244.040(1)

1 **SYNOPSIS:** Jim Brown was the Mayor for the City of Haines (City) when the events
2 relevant to this investigation occurred. The focus of this investigation was to determine if
3 a preponderance of evidence exists to indicate that Jim Brown violated the prohibited use
4 of office provision of ORS Chapter 244.

5
6 Information gathered indicates that Mayor Brown assisted the City's public works
7 department on two separate occasions in 2018, and that after completing the work, Mayor
8 Brown requested hourly compensation by the City of Haines City Council (Council). On
9 Council's approval, Mayor Brown accepted payment from the City on both occasions,
10 once in the amount of \$270.61, and once for \$154.99. There appears to be a
11 preponderance of evidence to indicate that Mayor Brown used or attempted to use his
12 official position as City Mayor to financially benefit himself.

13
14 **RELEVANT LAWS AND RULES:** The following Oregon Revised Statutes and Oregon
15 Administrative Rules are applicable to the issues addressed herein:

16
17 **ORS 244.020 Definitions.** As used in this chapter, unless the context requires
18 otherwise:

1 (15) "Public official" means the First Partner and any person who, when an alleged
2 violation of this chapter occurs, is serving the State of Oregon or any of its political
3 subdivisions or any other public body as defined in ORS 174.109 as an elected
4 official, appointed official, employee or agent, irrespective of whether the person is
5 compensated for the services.

6
7 **ORS 244.040 Prohibited use of official position or office; exceptions; other**
8 **prohibited actions.** (1) Except as provided in subsection (2) of this section, a
9 public official may not use or attempt to use official position or office to obtain
10 financial gain or avoidance of financial detriment for the public official, a relative or
11 member of the household of the public official, or any business with which the
12 public official or a relative or member of the household of the public official is
13 associated, if the financial gain or avoidance of financial detriment would not
14 otherwise be available but for the public official's holding of the official position or
15 office.

16
17 (2) Subsection (1) of this section does not apply to:

18
19 (a) Any part of an official compensation package as determined by the public body
20 that the public official serves.

21
22 * * *

23
24 (c) Reimbursement of expenses.

25
26 **OAR 199-005-0035. Guidelines for compliance with ORS 244.020(6), 244.025,**
27 **244.040, 244.042 and 244.047.** (3) An "official compensation package" means the
28 wages and other benefits provided to the public official. To be part of the public
29 official's "official compensation package", the wages and benefits must have been
30 specifically approved by the public body in a formal manner, such as through a
31 union contract, an employment contract, or other adopted personnel policies that

1 apply generally to employees or other public officials. "Official compensation
2 package" also includes the direct payment of a public official's expenses by the
3 public body, in accordance with the public body's policies.
4

5 (4) As used in ORS 244.040(2)(c), "reimbursement of expenses" means the
6 payment by a public body to a public official serving that public body, of expenses
7 incurred in the conduct of official duties on behalf of the public body. Any such
8 repayment must comply with any applicable laws and policies governing the
9 eligibility of such repayment. Expenses paid by the public body to their own public
10 officials need not be reported by the public official under ORS 244.060.
11

12 **INVESTIGATION:** The Oregon Government Ethics Commission (Commission) initiated
13 a preliminary review based on information in a signed complaint from City of Haines City
14 Councilor Lisa Whited on 8/10/18 (#PR1). A copy of the complaint was provided to the
15 respondent. In the complaint, Ms. Whited alleged that Jim Brown, Mayor of the City of
16 Haines, may have violated Oregon Government Ethics law. The Commission found cause
17 to investigate on 9/21/18, after considering the information developed in preliminary
18 review. The focus of the investigation was to determine if there is sufficient evidence to
19 indicate that Jim Brown violated ORS 244.040(1) by using or attempting to use his official
20 position to obtain hourly compensation for work completed on behalf of the City's public
21 works department. Jim Brown and Lisa Whited have been notified of the Commission
22 action in this matter. Both have been invited to provide any information that would assist
23 the Commission in conducting this investigation.
24

25 COMPLAINT AND ATTACHMENTS

26 The relevant portions of the complaint filed by Lisa Whited are excerpted below:
27

28 "Our [M]ayor Jim Brown is using public office for financial gain. He has been using
29 his own equipment and paying himself to spray right-[of]-ways and public property
30 on multiple occasions * * *. It has been brought to his attention * * * and he still
31 continues. * * * * * (#PR1)

1
2 Ms. Whited also attached three (3) documents to the complaint. Together, these
3 documents appear to show that Mayor Brown received hourly compensation for work
4 completed on behalf of the City on two (2) separate occasions in 2018, receiving \$270.61
5 on one occasion and \$154.99 on the other. The documentation provided with the
6 complaint also included a copy of City Council meeting minutes. The minutes suggest
7 that Mr. Brown requested hourly compensation for his services by City Council after
8 completing the work, and that City Council then voted unanimously to authorize the
9 payments to Mayor Brown on his request (#PR1).

10
11 Based on the documentation attached to the complaint, it is clear that Mayor Brown was
12 compensated in the amount of \$154.99 on 6/1/18. However, the documentation referring
13 to the \$270.61 payment is undated. In a follow-up telephone conversation during
14 investigation, Ms. Whited indicated that she could not recall the exact time line on the
15 \$270.61 amount, but that she was sure it was incurred and paid out in 2018, most likely
16 in the month immediately preceding or following the 6/1/18 payment. (#PR1; #INV1)

17
18 RESPONSE

19 On 8/16/18, after receiving notice that a complaint had been filed, Jim Brown responded
20 to Commission staff via email, which is excerpted below (and provided in-full to the
21 Commission with this report):

22
23 "I volunteer many hours of my time to help in the maintenance of the City. * * * I
24 did request payment for my time for spraying City property with my own equipment.
25 This was presented to * * * [and] approved by the Council unanimously, [and the
26 complainant] Councilor Lisa Whited voted yes * * *. * * * *"

27
28 It is unclear to me how these matters can be considered an ethics violation when
29 I had Council approval * * *. As the Mayor I cannot conduct City business on my
30 own, I must have Council approval * * *." (#PR2)

1
2 The next day, on 8/17/18, Mayor Brown followed up in a phone call to Commission staff
3 to offer additional information. Mr. Brown explained that he used his own equipment to
4 assist the City's public works employee with spraying and weed eating work on City
5 property in preparation for the City's annual 4th of July celebration. Mayor Brown stated
6 that under the City Charter, City Council has the authority to establish compensation for
7 City officials, and that if City Council did not wish to compensate him for the work done, it
8 could have approved him payment for less money than requested, or even deny the
9 request altogether. He further indicated that as Mayor, he serves as a volunteer and has
10 no power to authorize compensation for himself. He stated that under the City's Charter,
11 the Mayor gets no vote except in the event of a tie-breaker, unless it is a matter in which
12 the Mayor would have a conflict of interest, as would be the case here. (#PR2)

13
14 In response to the investigator's questioning as to whether Mayor Brown was
15 compensated or reimbursed for the work, Mayor Brown explained that the amount he
16 requested in pay was based on a flat hourly rate multiplied by the approximate number of
17 hours he spent spraying and weed eating in a given month. He then provided the City
18 Recorder with a hand-written bill to be presented to City Council for approval of payment.
19 As an example, Mayor Brown submitted a copy of his June 2018 calendar, which he had
20 used to record the number of hours he spent weed eating and spraying for that month,
21 and noting that he actually requested compensation for a few hours fewer than he actually
22 worked. Mayor Brown contends that he used all of his own equipment; the gas and
23 pesticides he used were owned by the City. (#PR2)

24
25 In a follow up conversation on 2/14/19, the investigator questioned Mayor Brown as to
26 the nature and timing of the two different dollar amounts that were paid to him by the City
27 (\$270.61 and \$154.99) as reflected in the complaint attachments. Mayor Brown confirmed
28 that both payments were compensation to him for work he had completed on behalf of
29 the City's public works department in two different months. He confirmed that the payment
30 of \$154.99 was paid to him on 6/1/18. He could not remember the exact date he was paid
31 the \$270.61, but believes it was in May or July of 2018. (#INV2)

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During Mayor Brown's telephone conversations with the Commission investigator, he also alleged that the manner in which he determined to assist the public works department and subsequently requested and obtained hourly compensation for the work is a common and long-standing practice for volunteer elected officials (i.e., mayors and city councilors) of the City of Haines. Mayor Brown explained that the reason for this is because the City only has 2 paid employees (a public works person and a city recorder) and sometimes additional hands are needed for small jobs for which it is not practical to hire a temporary employee. He stated that he and other City officials also believe such actions are permitted under the City Charter. (#PR2; #INV2)

During the 8/17/18 telephone conversation with Mayor Brown, he also requested and received advice with regard to how the City can ensure that its elected officials are not inadvertently violating Government Ethics law for accepting compensation for City work in these sorts of situations in the future. He indicated that the City would likely implement a policy to obviate the potential for future violations. (#PR2)

The City Recorder followed up in an email to the Commission investigator on 2/14/19, providing an attachment of a new policy enabling public officials to request and accept compensation, which has been promulgated by City Council as a direct result of this complaint being filed. A copy of this new City policy is provided to the Commission in full along with this report. (#INV3)

In light of the City's long-standing practice of authorizing such compensation and its recent effort to formalize the practice in a policy in response to the complaint, Mayor Brown requests that the Commission move to dismiss, or alternatively, if the Commission believes a violation occurred, issue a letter of education in lieu of a finding of violation. (#INV2)

HAINES CITY CHARTER

At the request of Mayor Brown, City Recorder, Valerie Russell, forwarded a copy of the

1 City Charter.

2
3 Section 13 of the City Charter (entitled "Salaries") reads as follows:

4
5 "The Council shall fix the amount of the compensation for City officers and shall
6 approve a compensation plan for City employees. Elected officers may receive
7 compensation for serving in an official capacity as elected officers. In addition they
8 may be reimbursed for actual authorized expenses." (#PR3)

9
10 Section 18 of the Charter (entitled "Mayor's Function at Council Meetings") states that
11 "[t]he Mayor shall:"

- 12
13 "(1) Preside over Council deliberations and preserve order;
14 (2) Not vote except in the case of a tie;
15 (3) Enforce the rules of the Council; and,
16 (4) Determine the order of business under the Council rules." (#PR3)

17
18 Section 21 of the Charter (establishing the "Powers and Duties" of the "Mayor") states
19 that as "the executive officer of the City * * * [t]he Mayor shall":

- 20
21 "(1) Appoint members of committees established by the Council rules and other
22 persons required by the Council to be so appointed[;]
23 (2) Promptly sign all ordinances, records of actions or proceedings, and
24 agreements approved or authorized by the Council; and faithfully implement
25 and enforce * * * this Charter and all ordinances, resolutions, orders, motions,
26 agreements and policies of the Council; and,
27 (3) Supervise all officers * * * employees, agents, commissions and committees
28 of the city, but shall have the power to delegate such duties * * *." (#PR3)

29
30 INFORMATION SUBMITTED BY OTHER CITY OF HAINES OFFICIALS

31 Upon learning that this complaint had been filed, three other individuals also submitted

1 written responses to the Commission in support of Mayor Brown—Kenneth Bain, a
2 current City Councilor; Dennis Anthony, a current City Councilor who previously served
3 as City Mayor; and Garla Rowe, a former City Councilor (whose term ended in 2012) who
4 claims to remain active in council meetings and committees as a community member.
5 (#PR4)

6
7 In part, Mr. Anthony and Ms. Rowe’s letters attempt to speak to Mayor Brown’s assertion
8 that the manner in which he secured compensation for the weed eating and spraying is a
9 long-standing practice at the City:

10
11 “As Mayor, I helped our Public Works employee several times when he was
12 overwhelmed with a project and the City Council had no problem paying for those
13 hours.” (Anthony) (#PR4)

14
15 “During my term, before and after, this procedure had been followed by the Mayor
16 and other Councilors * * *. In my opinion maybe none of the past or present City
17 body has done this procedure correctly and does need to change the
18 policy/procedure for the future, but the current City officials were only following
19 protocol of past officials * * *.”(Rowe) (#PR4)

20
21 All three (Bain, Anthony, and Rowe) questioned Councilor Whited’s motives in filing the
22 complaint:

23
24 “I strongly question the ethics and credibility of a [C]ouncilor who will vote to
25 approve numerous matters without question and then, rather than share her
26 concerns with her fellow council members * * * report these things as violations to
27 the state.” (Bain) (#PR4)

28
29 “I believe all of these issues were brought as a retaliatory effort against Mayor
30 Brown for the Cit[y’s] opposition to another issue arising in our town.” (Anthony)
31 (#PR4)

1
2 "I feel that this complaint is a head hunt for the current Mayor and the accuser is
3 just as guilty of this practice * * * herself." (Rowe) (#PR4)
4

5 **CONCLUSIONS:** Jim Brown was Mayor for the City of Haines during the period relevant
6 to this case. As such, Mayor Brown was a "public official" (as defined in ORS 244.020(15))
7 and therefore subject to ORS Chapter 244 Oregon Government Ethics law.
8

9 PROHIBITED USE OF OFFICE

10 In relevant part, ORS 244.040(1) prohibited Jim Brown from using or attempting to use
11 his official position as Mayor to obtain a personal financial benefit or avoid a personal
12 financial detriment, that would not have been available but for holding his public position.
13

14 ORS 244.040(2) provides a list of enumerated exceptions to the general prohibition under
15 ORS 244.040(1).

16
17 Relevant here, ORS 244.040(2)(a) expressly permits Mayor Brown to accept any part of
18 his "official compensation package" as determined by the City of Haines. OAR 199-005-
19 0035(3) specifies that to be part of an "official compensation package", any wages must
20 have been "specifically formally approved" by the City "such as through union contract,
21 an employment contract, or other adopted personnel policies that apply generally to * * *
22 public officials."
23

24 Likewise, ORS 244.040(2)(c) permits Mayor Brown to submit requests for and accept
25 reimbursements for costs incurred in the course of carrying out his public duties, as long
26 as it complies with any applicable laws and policies governing the eligibility of such
27 repayment (OAR 199-005-0035(4)).
28

29 Information obtained from the complainant and respondent indicate that Mayor Brown
30 determined the need for assistance in the City's public works department and decided to
31 provide the assistance personally on two separate occasions in 2018. Information

1 obtained from Mayor Brown and City meeting materials indicate that after completing the
2 work, Mayor Brown requested hourly compensation by City Council, and on Council's
3 approval, he accepted payment from the City on both occasions. City financial documents
4 indicate that Mayor Brown was paid in the amount of \$270.61 and \$154.99.

5
6 As explained above, in order for the reimbursement exception to apply (ORS
7 244.040(2)(c)), reimbursement payments "must comply with any applicable laws and
8 policies" (OAR 199-005-0035(4)). That would include the City's own Charter. Section 13
9 of the City Charter specifies that reimbursements are only allowable for "actual authorized
10 expenses." Although City Council did authorize the payment to Mayor Brown, the
11 payment was for a flat hourly rate, which is more reflective of compensation. Mayor Brown
12 does not claim that he was simply being reimbursed for actual expenses, rather he states
13 that he was paid at a flat hourly rate. Moreover, no information has been provided to
14 indicate that the amount paid to Mayor Brown was in relation to any "actual... costs" (such
15 as out of pocket expenses associated with gas, pesticide, equipment wear and tear, etc),
16 which appears to be required by the reimbursement policy as stated in the City Charter.

17
18 As also explained above, in order for compensation to a public official to be allowable and
19 not a prohibited use of office under ORS 244.040(1), it must be part of the official's "official
20 compensation package (per ORS 244.040(2)(a))." Pursuant to that requirement, Section
21 13 of the City Charter establishes that the Council "shall fix the amount of the
22 compensation for City officers." However, information gathered from Mayor Brown during
23 investigation indicates that the position of City Mayor is currently a volunteer position with
24 the City, and none of the other information provided indicates the existence of *any* official
25 compensation for the Mayor, let alone compensation that has been "fix[ed]" by Council as
26 the City Charter appears to require.

27
28 Moreover, while the information gathered indicates that Mayor Brown's conduct and the
29 subsequent approval of his compensation by Council are longstanding and widely
30 accepted practices by elected officials of the City of Haines, those facts alone do not
31 appear to be sufficient to indicate that the compensation was part of the Mayor's "official

1 compensation package” in this case. The Mayor’s duties and responsibilities are outlined
2 in the City Charter. The services for which Mayor Brown was compensated are not part
3 of the Mayor’s duties and responsibilities as outlined in the City Charter. Rather, the
4 nature of the work completed (spraying and weed eating) appears to have been more
5 consistent with that of a temporary public works employee or lawn treatment contractor
6 might be hired to perform. ORS 244.040(1) generally prohibits a public official from using
7 their official position to obtain paid work outside of his or her official position as the
8 financial benefit would not be available but for holding their public position. In this case,
9 Mayor Brown used his official position to determine the need for additional public works
10 services and to decide to provide the services himself.

11

12 As a result, it appears that a preponderance of evidence exists to show that Jim Brown
13 violated ORS 244.040(1) on two occasions when he used his position as Mayor to obtain
14 financial benefits which would not be available to him but for his official position in the
15 form of compensation (for \$270.61 and 154.99) for work done assisting the public works
16 department.

17

18 **RECOMMENDATIONS:** The Commission should make preliminary finding that Jim
19 Brown committed two (2) violations of ORS 244.040(1) [Motion 10].

20

21 **ASSOCIATED DOCUMENTS:**

22 #PR1 Complaint and additional materials from Lisa Whited, received 8/10/18.

23 #PR2 Jim Brown’s communications with OGEC Investigator during preliminary review
24 period, 8/16/18 – 8/17/18.

25 #PR3 Materials from City of Haines, City Recorder, Valerie Russell, received 8/20/18.

26 #PR4 Combined letters emailed to OGEC Investigator from Kenneth Bain, Dennis
27 Anthony, and Garla Rowe.

28 #INV1 Memo summarizing phone contact with complainant, Lisa Whited, on 2/14/19.

29 #INV2 Memo summarizing phone contact with Jim Brown on 2/14/19.

30 #INV3 City of Haines Policy to Allow City Officials to Request Compensation (dated
31 9/11/18), received from Haines City Recorder on 2/14/19.

PREPARED BY

H. Weedn
Hayley Weedn
Investigator

2/25/19
Date

APPROVED BY

R. Bersin
Ronald A. Bersin
Executive Director

2/26/19
Date

REVIEWED BY

Amy E. Alpaugh
Amy E. Alpaugh
Assistant Attorney General

2/26/19
Date

WEEDN Hayley * OGEC

From: Jim <themayor@rconnects.com>
Sent: Thursday, August 16, 2018 4:17 PM
To: HUNTER David * OGEC
Cc: WEEDN Hayley * OGEC
Subject: RE: Open Complaint- OGEC
Attachments: July 10, 2018 Council Minutes.pdf

David,

After carefully reviewing the complaint from Lisa Whited I would like to submit information concerning this matter. Lisa's first statement that "Our Mayor, Jim Brown is using public office for financial gain." I volunteer many hours of my time to help in the maintenance of the City. In June of this year I did request payment for my time for spraying City property with my own equipment. This was presented to the Council at the July 10, 2018 City Council meeting in the consent agenda which includes monthly expenses and payroll. The consent agenda including expenses and payroll was approved by the Council unanimously, Councilor Lisa Whited voted yes to approve the consent agenda including expenses and payroll. To response to the next statement in the complaint that "He is also under investigation for no applicator spray license for himself or any paid employees from ODA", I am not under investigation. The City has been told on numerous occasions in the past that there was no need for an applicators license because the City does not use restricted chemicals. Apparently, there is a rule concerning how it is sprayed and a motorized vehicle cannot be use, but a backpack sprayer is allowed, the City had never been advised of that requirement. The public works will be obtaining an applicators license, so there is not an investigation. The statement "As City officials we are compensated \$50.00 per month which he is in fact signing over to our city recorder as a gift." To clarify, I do not take the \$50.00 per month compensation that I am entitled to receive so the money goes back into the wage category in the budget. I felt that the City Recorder was underpaid so I discussed with the Council the matter of increasing her wages by \$50.00 per month since there was extra money in the budget for wages. The City Attorney, Dan Van Thiel advised the City that there was no problem increasing an employee's wages if the funds were available in the budget. The City Accountant, Bob Seymour also advised the City that this was an acceptable procedure and added the \$50.00 per month to her wages which is taxed the same as the rest of her wages. The Council, (which included Councilor Lisa Whited) voted unanimously to approve the \$50.00 per month increase in wages for the City Recorder.

It is unclear to me how these matters can be considered an ethics violation when I had Council approval to complete them. As the Mayor I cannot conduct City business on my own, I must have Council approval.

Please let me know that you have received this correspondence and if there is any other information that you need. I have attached a copy of the July 10, 2018 minutes which reflect that the Council unanimously approved the consent agenda that includes the expenses and payroll.

Sincerely,

Jim Brown
Mayor
City of Haines
541-519-0334

From: HUNTER David * OGEC <David.HUNTER@oregon.gov>
Sent: Tuesday, August 14, 2018 9:12 AM
To: themayor@rconnects.com

Cc: WEEDN Hayley * OGEC <Hayley.WEEDN@oregon.gov>

Subject: Open Complaint- OGEC

Dear Mr. Brown,

Attached is a copy of the Complaint and related materials for your review. Hard copy is out in the mail to you today. Please contact Investigator Hayley Weedn at hayley.weedn@oregon.gov if you have any questions on Commission process or procedures.

Best Regards...

David R Hunter
Oregon Government Ethics Commission
3218 Pringle Rd SE STE 220
Salem OR 97302-1544
Direct 503-378-5105
Fax 503-373-1456

OREGON GOVERNMENT ETHICS COMMISSION

INVESTIGATION

CASE NO: 18-178ETH

DATE: February 26, 2019

RESPONDENT: Christina Stanley, former Mayor, City of Gold Hill

COMPLAINANT: Robert Lowe, City Manager, City of Gold Hill

RECOMMENDED ACTION: Move to Dismiss the Complaint

1 **SYNOPSIS:** Christina Stanley was the elected Mayor of the City of Gold Hill, Oregon,
2 from 2017 to 2019. The complaint in this case, filed by City Manager Rob Lowe, alleged
3 that Christina Stanley may have attempted to use her official position to obtain a
4 prohibited financial gain through the mishandling of city boat launch fees. The focus of
5 this investigation was to determine if there is a preponderance of evidence to indicate that
6 Christina Stanley committed violations of the use of office provisions of ORS Chapter 244.

7
8 Due to inadequate recordkeeping and lax or nonexistent policies and procedures, the City
9 of Gold Hill cannot determine if any of its boat launch fees were misappropriated by
10 Christina Stanley, or anyone else, for that matter. Information available during the
11 investigation is insufficient to recommend a preliminary finding of violation of ORS
12 244.040(1).

13
14 **RELEVANT STATUTES:** The following Oregon Revised Statutes are applicable to the
15 issues addressed herein:

16
17 **244.020 Definitions.** As used in this chapter, unless the context requires
18 otherwise:

1 244.020(15) "Public official" means the First Partner and any person who, when
2 an alleged violation of this chapter occurs, is serving the State of Oregon or any of
3 its political subdivisions or any other public body as defined in ORS 174.109 as an
4 elected official, appointed official, employee or agent, irrespective of whether the
5 person is compensated for the services.

6
7 **244.040 Prohibited use of official position or office; exceptions; other**
8 **prohibited actions.** (1) Except as provided in subsection (2) of this section, a
9 public official may not use or attempt to use official position or office to obtain
10 financial gain or avoidance of financial detriment for the public official, a relative or
11 member of the household of the public official, or any business with which the
12 public official or a relative or member of the household of the public official is
13 associated, if the financial gain or avoidance of financial detriment would not
14 otherwise be available but for the public official's holding of the official position or
15 office.

16
17 **INVESTIGATION:** The Oregon Government Ethics Commission (Commission) initiated
18 a preliminary review based on information in a signed complaint dated August 15, 2018
19 from Rob Lowe, City Manager for the City of Gold Hill (City). Mr. Lowe's complaint alleged
20 that in July 2018 Mayor Christina Stanley may have accessed the City's boat launch fee
21 box without authorization. Mr. Lowe expressed concern that Ms. Stanley may have
22 misappropriated cash from the boat launch fee payments, but admitted that there was no
23 way to determine if any money was missing. (#PR1).

24
25 On September 21, 2018, the Commission found cause to investigate after considering
26 the information developed in the preliminary review. The focus of the investigation was to
27 determine if there is sufficient information to indicate that Christina Stanley violated
28 Oregon Government Ethics law by misappropriating City boat launch fee payments and
29 using them for personal purposes. Christina Stanley and Rob Lowe were both notified of
30 the Commission's actions in this matter and were invited to provide any information which
31 would assist the Commission in conducting this investigation.

1 Boat Launch Ramp

2 Located on the Rogue River, the City has four parks, one of which includes a boat ramp.
3 Individual users of the boat ramp are required to pay a \$1.00 per person fee. Commercial
4 users are required to obtain an annual user license in addition to the \$1.00 per person
5 fee. These fee payments are done on the honor system, using a lock box located near
6 the boat ramp (fee box), or by mailing checks to the City. Instructions on the fee box direct
7 users to insert payments into the fee box using the envelopes provided in a separate
8 dispenser attached to the side of the pole supporting the fee box (envelope dispenser).
9 Photographs of the fee box and envelope dispenser are included with this report. (#IR2).

10
11 Fee Payment Collection Practices

12 While a sign on the fee box states that fee payments are collected daily, information
13 indicates that in the past the City checked the fee box irregularly, weekly or bi-weekly
14 during the summer rafting season and less frequently during the off-season. According to
15 both Christina Stanley and Rob Lowe, prior to July 2018 the City had no formal policies
16 or procedures for how or when the fee payments were collected. (#PR1; #IR1).

17
18 This lack of a formal policy or procedure became evident to City Manager Rob Lowe
19 shortly after he started with the City in July 2018. Mr. Lowe reports (emphasis in original):

20
21 A few days into my tenure, I asked the Mayor about the boat ramp fee box; i.e.,
22 when are funds collected and who is responsible. I knew that we had budgeted for
23 \$3,000 in revenue[;] [h]owever as I reviewed our General ledger I observed no
24 revenue posted since **May 2017!** I raised this concern with the Mayor and she
25 indicated that the key was stored in the locked key box in the clerk's office. Shortly
26 thereafter, she delivered a cardboard box full of envelopes from the fee box and
27 the key to my office. She explained that she "just happened" to have the key in her
28 car.

29
30 As I had only been on the job for a few days, and the Mayor explained that she
31 had collected the funds "over the past few months", I told her that I thought the

1 best way to handle the situation was for her to turn the funds over to the city clerk
2 for deposit. I assumed that our policy had been for the Mayor to collect the money,
3 and turn them in to the clerk for processing. I explained to the Mayor that I wanted
4 to develop a policy for collecting the funds which would utilize city staff, not the
5 Mayor. I wanted a more airtight audit process that assured the integrity of the
6 process.

7
8 I assumed that the Mayor had turned over the funds[;] [h]owever, a few days later
9 she delivered a stack of bills to me, leaving them on my desk with no explanation.
10 When I pressed her for details, explaining that I was uncomfortable being put in
11 the middle of this, she said that she had held the money until we entered the new
12 budget into Springbrook. (She did not want the funds to appear in last year[']s
13 budget). As it turned out, it was \$264 in currency and 2 checks totaling \$6.00. I
14 called Denise [the City Clerk] into my office to witness the counting of the cash,
15 and I turned it over to her for safekeeping. From 07/24 on, funds have been
16 collected on Monday[s] as per policy, entered into "Boat Ramp Fees" in
17 Springbrook and deposited in our next bank drop. (#PR1).

18
19 In her response to the complaint, Christina Stanley explains that she began servicing the
20 fee box and envelope dispenser shortly after beginning her term as Mayor in January
21 2017. She acknowledges occasionally keeping the keys to the fee box and envelope
22 dispenser in her car. She says that she always tried to return the keys to City Hall within
23 24 hours, but occasionally kept them in the console of her locked car. (#IR1). When a City
24 Recorder was hired in April 2017, Mayor Stanley continued servicing the fee box and
25 envelope dispenser. She describes the process:

26
27 With the Recorder's knowledge, I took the keys out of the box in City Hall and filled
28 the envelope box and collected the envelopes and cash from the fee box. I opened
29 the envelopes. She counted the money[,] made out a deposit slip and as I watched,
30 put the money in the bank deposit bag which she put *** in the safe. (#IR1).

1 According to Ms. Stanley, entering transactions into the general ledger has never been
2 the Mayor's responsibility, nor did she know how to do so. The City Recorder was
3 supposed to itemize and record the fee payments in Springbrook. Unfortunately, it
4 appears that the City Recorder, who resigned in February 2018, may not have properly
5 recorded the fee payments. Ms. Stanley reports that the City Recorder entered over
6 \$43,000 in non-itemized receipts in the general ledger as "miscellaneous." Apparently,
7 the City's auditors were unable to complete the audit due to incomplete records. (#IR1).
8 Commission staff conducted a telephone interview with the former City Recorder. She
9 reported that she had no experience when hired as the City Recorder and received limited
10 and inconsistent training on the job. She also confirmed there were no written policies,
11 procedures or schedule for the collection of the fee payments. (#PR4).

12
13 It appears that the lack of a trained City Recorder is an on-going problem for the City. In
14 a supplemental response, Christina Stanley provided a copy of a July 26, 2018 e-mail
15 from outside auditor, Stewart Parmele. Mr. Parmele reports that the City's banking
16 records show more money deposited in the bank than recorded in the general ledger, and
17 that the recording of transactions for April, May and June of 2017 appear incomplete. Mr.
18 Parmele goes on to say (emphasis in original):

19
20 **While we very much appreciate the assistance provided by your staff, the**
21 **level of experience needed to properly and completely record and report all**
22 **expenditures and receipts, [sic.] is just not there.** Having that knowledge and
23 experience is critical to filling the recorder position, and it is our professional
24 recommendation that the City continue to search for a City Recorder. (#IR3).

25
26 After the City Recorder resigned in February 2018, the City Clerk assumed some of the
27 Recorder's duties. According to Ms. Stanley, she did not trust the Clerk to process the fee
28 payments. So when the summer rafting season began in June 2018, Mayor Stanley
29 collected the fee payments and put them in a cardboard box in the City Council's office.
30 She kept them there for approximately one month until someone in a management
31 position could take over the processing of the fee payments. (#IR1; #PR6).

1 Alleged Misappropriation of Fee Payments

2 With his complaint, City Manager Rob Lowe provided the following narrative of events
3 occurring in late July. He explains that the fee box was emptied on July 24, 2018. The
4 money, totaling \$144, was counted and the envelope dispenser was refilled. He goes on
5 to explain:

6
7 [The] City Manager and City Clerk verified that the sole key to the fee box was
8 locked in the 'key box' in city hall at 4 pm, Friday July 27th. The key is a round
9 "lockbox" style key and is marked with a tag labeled 'Money box' and 'boat ramp'.
10 The keys were properly hung on a hook inside the key box.

11
12 Monday July 30 at 7:00 am Tony observed a stack of envelopes on the ground
13 outside the fee box. There were no more new envelopes in the holder. Upon
14 inspection, he discovered the paper key tag which is normally affixed to the fee
15 box keys lying on the ground by the fee box.

16
17 At 9:30 am on July 30th, Tony, Thom Canon and myself representing City
18 Management accessed and emptied the boat ramp fee box. We returned the
19 envelopes to Denise Gomez (City [C]lerk) to be counted and verified. There were
20 45 envelopes plus a few loose bills turned in to the clerk. This resulted in \$101
21 being collected for the city.

22
23 My investigation discovered that the **only access** to city hall between 5 pm Friday
24 and 8:00 am Monday was by Mayor Stanley at 15:26 (3:26 pm) on Sunday June
25 [sic.] 29. She accessed city hall a second time at 15:40 the same day.

26
27 As the fee box key & tag were known to be secured in the key box Friday afternoon,
28 it is reasonable to assume that Mayor Stanley took the key and possibly accessed
29 the fee box on Sunday. However, this is not provable. It is not possible to determine
30 if any envelopes were removed from the locked box. (#PR1).

1 Christina Stanley admits that she entered City Hall on that Sunday to collect some
2 paperwork. She claims that while she was there she decided to take some envelopes out
3 to refill the envelope dispenser:

4
5 On the 29th I took out the Keys to the Boat Ramp Fee Box, and took envelopes out
6 to the Box. Both the envelope side of the box and the Fee box keys are on the
7 same ring. You would have to manually disconnect them if you wanted to just take
8 one. They have a paper label on them. I took the envelopes to the boat ramp and
9 placed them in the envelope side of the fee box and did not open the other side of
10 the box to collect any envelopes. (#IR1).

11
12 She maintains that the envelope dispenser was empty when she went to fill it, but does
13 not recall seeing any stack of envelopes on the ground. She goes on to speculate that
14 the paper label on the key ring must have fallen off when she was replacing the
15 envelopes. (#IR1).

16
17 New Fee Collection Policy

18 Shortly before the incident described above, City Manager Rob Lowe had instituted a new
19 policy for the collection of the fee payments. The policy states, in part:

20
21 The fee box shall be checked every Monday by the Public Works Superintendent
22 accompanied by *either* a city councilor or a city staff member. Should the Public
23 Works Superintendent be unavailable, the City Manager will take his place.

24
25 The key to the fee box is to be kept in a securely locked cabinet in the city clerk's
26 office. The key is released by the clerk to the Superintendent or City Manager and
27 is returned to the key box when funds are brought in. ***** (#PR7).

28
29 Notably, the new policy only addresses the collection of fee payments. It does not provide
30 any guidance as to the envelope dispenser. Ms. Stanley claims that all she did on that
31 Sunday was refill the envelope dispenser. In a telephone interview with Commission staff,

1 City Manager Rob Lowe admitted that despite the new policy, there have still been times
2 when he has found envelopes from the envelope dispenser scattered about on the
3 ground. (#IR4).

4
5 Analysis of Boat Launch Fee Collections

6 There are some inherent difficulties with any analysis of the City's boat launch fee
7 payments. First, as noted above, there is the difficulty created by the City's inconsistent
8 recording of its fee payments, particularly during FY2018 when the untrained City
9 Recorder was in charge of entering transactions in the general ledger. Second, there is
10 the difficulty created by economic and atmospheric conditions that differ year to year. A
11 number of commercial rafting companies may have entered or exited the market during
12 these years. During some summers, warmer temperatures result in higher fee payments.
13 During other summers, smokier conditions result in lower fee payments.

14
15 Another difficulty is that the fee box has been vandalized more than once. In an interview
16 with Commission staff, Ms. Stanley reported: "There used to be two fee boxes, but due
17 to vandalism, a decision was made to inactivate one of them." (#PR6). Notably, the City
18 recently reported on its website that the fee box had been vandalized on November 24th
19 and the fee payments that were in inside it, if any, had been stolen. (#IR5).

20
21 Despite these difficulties, Commission staff has attempted to provide a comparative
22 analysis of the City's fee payments from FY2015 through FY2019, using the information
23 in the ledgers provided by the City. (#IR6).

24
25 Total Annual Boat Launch Fee Payments

26 <u>FY2015</u>	<u>FY2016</u>	<u>FY2017</u>	<u>FY2018</u>	<u>FY2019</u>
27 \$5,024.56	\$4,174.95	\$3,105.58	\$1,031.52	\$1,314.08

28
29 The higher amounts recorded in the earlier fiscal years can be explained, in part, by
30 examining payments by cash and payments by check. The commercial rafting
31 companies, which generally paid by check, pay large amounts up front for their annual

1 licenses and user fees. For these earlier years, the ledgers provided by the City included
 2 both payments by cash and by check. The ledgers provided for the past two years,
 3 however, show only cash payments and do not include any commercial fee payments in
 4 the annual totals. In a telephone call with Commission staff, City Manager Rob Lowe
 5 explained that it appeared likely the rafting companies did not pay any fees during this
 6 time period. He contacted several of the rafting companies, who confirmed that they never
 7 received invoices from the City, and therefore never paid for City licenses or user fees.
 8 He also confirmed that there were no reports of any missing or altered check payments.
 9 (#IR7).

10
 11 Annual Boat Launch Fee Payments – Cash Only

12 <u>FY2015</u>	<u>FY2016</u>	<u>FY2017</u>	<u>FY2018</u>	<u>FY2019</u>
13 \$1,854.56	\$1,526.20	\$1,409.58	\$910.50	\$1,314.08

14
 15 Apart from FY2018, when the former City Recorder failed to properly itemize deposits in
 16 the general ledger, there appears to have been a steady, but not significant, decline in
 17 cash fee payments from FY2015 to FY2019. As indicated above, this decline may be due,
 18 in part, to an increase in the number of wildfires and the resulting wildfire smoke.

19
 20 Drilling down in the City's general ledger, we examined and compared the cash fee
 21 payments collected during the months of July, August and September, when the rafting
 22 season is at its height:

24	<u>July</u>	<u>August</u>	<u>September</u>	<u>Totals</u>
25 FY2015	\$174.60	\$519.67	\$335.26	\$1,029.53
26 FY2016	\$401.84	\$307.05	\$171.99	\$ 880.88
27 FY2017	\$299.62	\$608.89	\$345.05	\$1,253.56
28 FY2018	\$358.50	\$402.00	\$150.00	\$ 910.50
29 FY2019	\$558.00	\$420.03	\$303.05	\$1,281.08

1 The cash fee payments during July 2018, the month at issue in this case, were greater
2 than the cash fee payments collected in the same period during prior years or in
3 subsequent months during 2018. With the exception of September 2017, when deposits
4 were not properly recorded, the fee payments collected during Mayor Stanley's tenure
5 were comparable to prior administrations.

6
7 **CONCLUSIONS:** Christina Stanley was the elected Mayor of Gold Hill during the time
8 period relevant to this investigation. As Mayor, Christina Stanley was at all relevant times
9 a public official as defined in ORS 244.020(15) and subject to compliance with the
10 provisions of ORS Chapter 244.

11
12 **Prohibited Use of Office**

13 ORS 244.040(1) prohibits public officials from using or attempting to use their official
14 position to obtain a financial gain or avoid a financial detriment for themselves, their
15 relative or household member, or any business with which they, a relative or household
16 member, are associated, if the financial benefit would not otherwise be available but for
17 their holding of the official position. This prohibition applies regardless of whether a public
18 official has disclosed a conflict of interest under ORS 244.120. [ORS 244.040(7)].

19
20 It is abundantly clear in this case that prior to July 2018 the City administration had serious
21 problems. The City had no policies or procedures governing the boat launch fee
22 payments. The rafting companies were not invoiced, deposits were not properly recorded,
23 and the City's financial records were incomplete. There may have been poor
24 administrative oversight at the City; however, there is insufficient information to establish
25 that these problems were caused by Christina Stanley or that she took advantage of the
26 problems to obtain some sort of prohibited financial gain.

27
28 There is also insufficient information to support a finding of violation based on the events
29 in late July 2018. City Manager Rob Lowe admitted that it was not possible to know
30 whether Christina Stanley had accessed the fee box without authorization or to determine
31 if any fee payments were misappropriated. The comparative analysis of the City's fee

1 payments suggests that the fee payments collected in July 2018 were equal to, if not
2 greater than, those collected during prior years or in subsequent months. There is
3 insufficient information to support a preliminary finding that Christina Stanley
4 misappropriated any of the fee payments or otherwise violated ORS 244.040(1).

5
6 **RECOMMENDATIONS:** Because there is no evidence that Ms. Stanley misappropriated
7 any City funds, information in this case is insufficient to recommend a preliminary finding
8 of violations of ORS 244.040(1) by Christina Stanley.

9
10 The Oregon Government Ethics Commission should move to dismiss the complaint.
11 [Motion 7].

12 ///
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1 **ASSOCIATED DOCUMENTS:**

- 2 #PR1 Complaint, received on 8/15/18.
- 3 #PR2 Telephone interview with Rob Lowe, 8/17/18.
- 4 #PR3 E-mail correspondence from Christina Stanley, received 8/21/18.
- 5 #PR4 Telephone interview with Vonna Hangaard, 8/21/18.
- 6 #PR5 E-mail correspondence from Rob Lowe, 8/24/18.
- 7 #PR6 Telephone interview with Christina Stanley, 8/20/18.
- 8 #PR7 City policy, received 8/20/18.
- 9 #IR1 Response from Christina Stanley, received 9/21/18.
- 10 #IR2 Photographs of fee box and envelope dispenser.
- 11 #IR3 E-mail from Stewart Parmele, received on 8/21/18.
- 12 #IR4 Telephone interview with Rob Lowe, 10/19/18.
- 13 #IR5 City website report re: vandalism.
- 14 #IR6 City general ledger reports, 2015 to 2019.
- 15 #IR7 Telephone interview with Rob Lowe, 2/26/19.

PREPARED BY *Susan V. Myers* 2/27/19
Susan Myers Date
Investigator

APPROVED BY *[Signature]* 2/27/19
Ronald A. Bersin Date
Executive Director

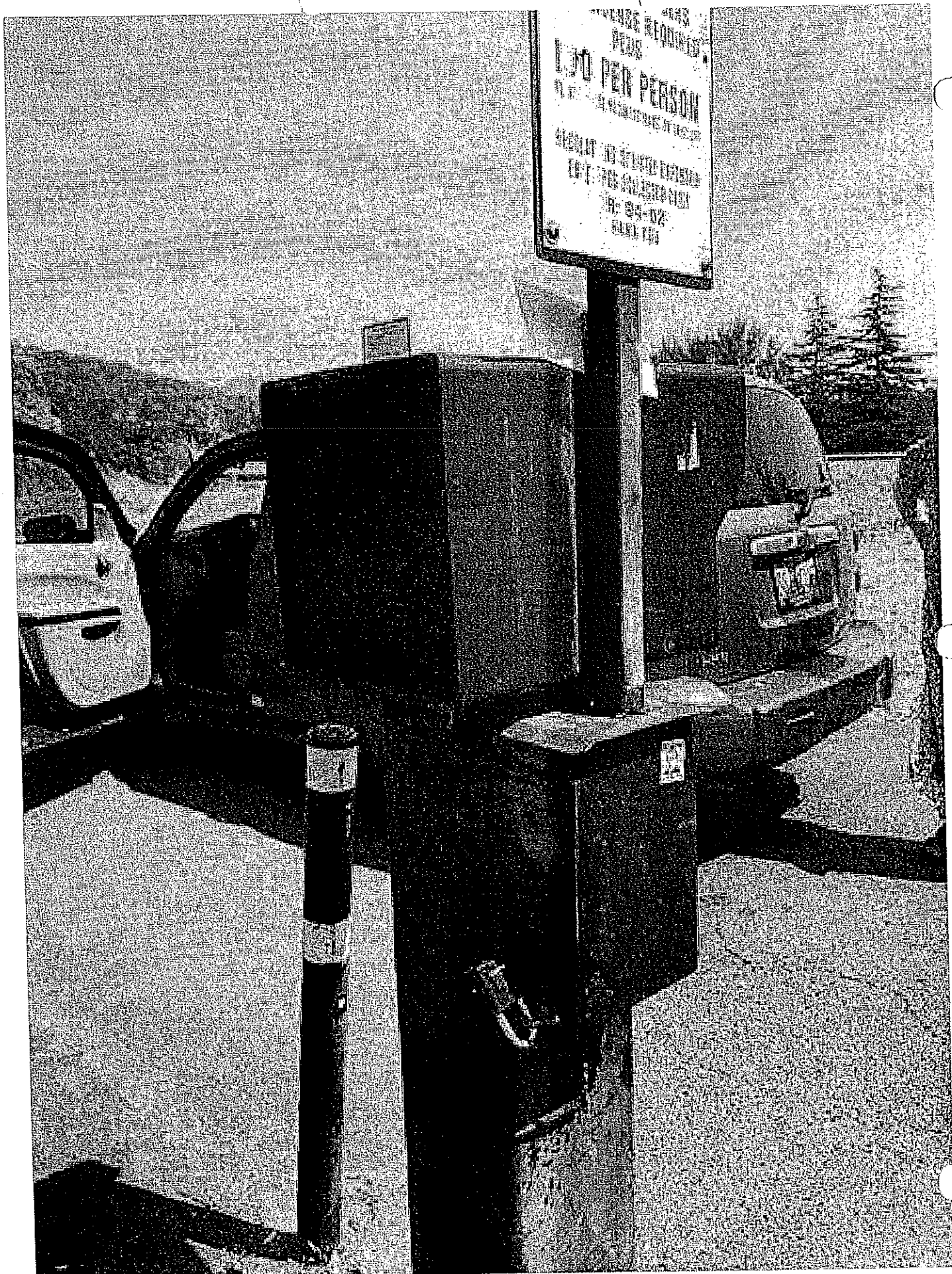
REVIEWED BY *Amy E. Alpaugh* 2/26/19
Amy E. Alpaugh Date
Assistant Attorney General

Pull Here



Emptied Daily

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TO: Oregon State Ethics Commission

FR: Christina Stanley, Mayor Gold Hill

RE: Case No 18-178ETH

Thank you for giving me an opportunity to respond to this complaint.

I probably should thank City Manager, Rob Lowe, because this is the first time I was presented with these allegations in any cohesive order. I have never been interviewed within the city, regarding this issue in this complaint. I was told earlier by the City Manager that he found no evidence of wrongdoing on my part and I believed the issue or issues had been sufficiently debunked.

I think there is a naturally occurring question "Why is there a complaint being issued for what amounts to a charge of theft, when the complainant states that there is no evidence that any theft of funds has occurred?"

I think I know exactly what provoked this complaint. There are Councilors who did not sign their name to this complaint that have put the City Manager in a tight spot by demanding that "something be done" regardless of the lack of evidence that funds have been misappropriated. On a council with 6 Councilors..4 is a majority.

The Councilors who are behind this complaint, are some of the same Gold Hill City Councilors that have recently had Ethics Complaints filed against them by a resident of Gold Hill.

I have to suspect there is an element of "getting back" at their opponents.

I understand that the earlier Ethics complaint, included a copy of the recording of the illegal meeting where they discussed all their various unsubstantiated complaints against myself and an employee, who they failed to notify of their back door, machinations.

The tape could be used as a model in a meetings law seminar, as an example of prohibited conduct.

It might be helpful to your investigation if you became familiar with this group of Councilors and what standards, or lack thereof, they use to accuse people of unethical and even criminal activity.

City Manager's end paragraph states "As the fee box key & tag were known to be secured in the key box on Friday afternoon, it is reasonable to assume that Mayor Stanley took the key and possibly accessed the fee box on Sunday. However, this is not provable. It is not possible to determine if any envelopes were removed from the locked box."

There is no evidence that any money was ever taken at all.

I have never had sole access to box in which the keys were kept.

The Boat Ramp Fee box has been robbed or partially robbed many times over the years. However, I am not suggesting this to be the case in point, but rather that the ease with which this box is burglarized probably reflects on overall receipts.

We have abandoned a similar box in the same park for that reason.

The long list of lies that have been repeated by this circular group all have their inception with two employees. These two employees are currently the subject of a complaint alleging failure to supervise.

The Utility Parks Worker that has been openly campaigning to have an employee of good standing that has worked for the City for 20+ years as a Water Plant operator, fired in order to get that job for someone they like better. In that effort he has already been caught red-handed creating a false water crisis on June 11th, 2018. And also discussing customer's delinquent water bills, information he could only obtain from his co-worker, the city clerk, with Councilors and the public. The Council refuses to supervise or correct him and are now courting a lawsuit for his lying attacks on another worker. This utility parks worker has enlisted Councilors into this effort, despite the fact there is no basis to fire this employee. These Councilors have characterized my protection of the employee based on Labor Laws as "coddling him" and they are so determined to accomplish the firing of this employee, that I simply became an obstacle to be removed.

The City Clerk, was under the impression that she was going to be promoted to City Recorder and also went on a lying rampage against me when the Council voted to hire the current City Manager.

This allegation against me, has its' roots in a mess in City Hall. I have no idea if the Councilors believe I have stolen envelopes from the Boat Ramp Fee Box..I know they want it to be true because they are in a lathered up state and they believe that by working in tandem with each other, they are a law unto themselves. "They know it is true, because they say it is true".

My rebuttal will address whether or not I mishandled public money.

I took office in January of 2017. Also in January 2017, the City Recorder, put in her resignation and the Council approved to have me fulfill the duties of the City Recorder(day to day operations of the city) until we hired a replacement. As part of that decision I was further instructed to come back to council with any individual expenditures over \$1,000.

We subsequently hired a City Recorder in April of 2017. This recorder resigned in February 2018 after she was unable to give adequate financial material to the Auditor in order to complete the 2016/17 Audit.

During the period from January 2017-March 2017 after being given the duties of the City Recorder by a vote of the Council, there was no immediate necessity for anyone to service the box at the boat ramp as far as I remember. During that period, I did not fill the box with envelopes or pick up money from the fee box.

When the new City Recorder was installed April or May, 2017, I was the only one in position to give her any training or daily assistance. The Boat Ramp fee box was not a priority but it was one of the many tasks that eventually had to be done. As the season came around, mid month of June, we began to get calls from people that there were no envelopes in the Boat Ramp Fee Box so we began servicing the box by putting envelopes in and collecting them. There was no schedule, but it was probably done each week and sometimes every other week, depending on the weather. I assumed that the Boat Ramp fees were itemized on the deposit slips or memorialized somewhere. That duty was not mine, but Recorder's.

As far as I know, the Boat Ramp Fees are the only receipts the city takes in that does not have a back up way to verify them, which explains why there is attention taken to their collection.

With the Recorder's knowledge, I took the keys out of the box in City Hall and filled the envelope box and collected the envelopes and cash from the fee box. I opened the envelopes. She counted the money made out a deposit slip and as I watched, put the money in the bank deposit bag which she put it in the safe. I did not fill out the deposit slips or any other function besides what I have stated here. This system was being used from May 2017 to February 2018.

At that time, I had a set of keys that have always been in the possession of the Mayor. These keys consist of, a key to the front door of city hall, a key to the clerks' office and a key to the copy room.

However, the keys for the Boat Ramp fee box have never been attached to my keys and they were usually returned to the Key Box in City Hall, sometimes they were left in my console but were generally returned to the box within 24 hours of my servicing the box. I never kept the receipts in my car or possession, once they had been collected from the box.

I do not know if the Recorder ever had anyone else service this box during that period of time, it did not appear that she had but I did not inquire. Whenever there has been a question about handling cash, we have always found that it was preferable for an Officer of the city to handle the cash. It might have just been a matter of convenience as I regularly ran a number of errands that helped the staff stay on task, such as delivering the labs to be tested for Nielsen and bank deposits.

When the City Recorder resigned in February of 2018, and I resumed the temporary duties of the Recorder by default, it was Winter and the Boat Ramp Fee box did not need immediate attention and there was no reason to start putting envelopes in that box.

Over the years we have had random but consistent issues with both fee boxes in the Park. I have attached a picture of both of them.

Envelopes are vandalized out of the box, sometimes turning up as toilet paper in vagrant camps or simply strewn around the Skate Park that is a few yards away from the Boat Ramp Fee Box. For many years we have had intermittent problems with people attaching a glue substance to another object and fishing envelopes out of the box. This often results in glue/dirt envelopes.

Sometime in June 2018, I began putting envelopes out and collecting envelopes from the fee box. These envelopes did have a lot of glue bits on them so probably some of them had been in the box a long time.

The envelopes that I collected were kept in a small box in the Council office in City Hall during this period of time. I did not choose to open the envelopes with Clerk. These were monies that I collected, and it was my decision to keep them in their envelopes until I could turn them over to an Officer in charge. That was my decision as the Mayor and acting Recorder.

One of my issues with the City Clerk, is that she was assuming that she would be promoted from the Billing Clerk to the position of Recorder, simply because the other recorder had resigned. Working with the city clerk daily, I found it difficult to tell her that, in my opinion, she did not possess the aptitude to do that job, and I encouraged her in tasks that I thought she could add to her resume. I didn't want to do anything that created a further impression that she was ascending into the other job. In the other jobs that she had undertaken, I tried to keep it clear that she was doing those jobs under my position as an Officer. Denise never did the bank deposits, she never did minutes..she was only assigned clerk duties or official duties under my auspices. She was only permitted to handle cash that had an independent record.

All this time, other Councilors were telling her that she would become the next City Recorder and she actually started signing her name as "Deputy City Recorder" even though she had never been appointed as such. I worked with Denise daily, and I decided not to sit with Denise and open the envelopes and essentially mimic a job that I had done and further confuse the situation regarding Ms. Gomez. I also opted not to open the envelopes at all.

The city clerk was never appointed Deputy City Recorder and she was never made the finance officer. Any official duties she performed, were done under my office as Mayor.

My working relationship with the city clerk became strained at anything that touched upon her assuming the duties of the Recorder. It was the easiest thing in the world for me to NOT make one more opportunity to exacerbate that strain by simply leaving those few envelopes in the Council office.

The box with the receipts from June to the first week in July 2018 were kept in the Council office. They constituted 100% of the envelopes I ever picked up from the box during that period and I do not believe I serviced that box more than 3 times in that period.

When I used the keys I generally returned them to the Key Box. I never intentionally kept the keys in my possession however there were times when they were left in the console of my always locked car. I have no knowledge if anyone else accessed those keys while they were in City Hall. I neither opened the envelopes or counted the money. When the City Manager came on board, I turned over both the box of envelopes and the keys to the Fee Box. I did not stop to explain my rationale at that time because he had just come on board and it did not feel good to have to tell him that neither the ex-Recorder or I had limited confidence in the billing clerk. At that time the City Manager told me that he was going to put a policy in place going forward and from that time I never collected the envelopes from the Fee Box.

I will agree with the City Manager that the receipts average \$100 per week..for the good months. . However even when I was picking up the envelope, since they were not picked up on any schedule, it would be hard for me to speculate on what an average seven day week would produce or whether or not one collection included a week-end or even two weekends.

The receipts on the Budget are \$3000, not \$5200 as they would be if it were consistent. I think the receipts probably start out slow, and peak during summer and again in autumn when the usage is higher. The \$3,000 figure has been pretty consistent.

On Sunday July 29th, I entered City Hall at 3:26 to get paperwork and as I usually do errand type tasks, I decided to go out and fill the envelopes at the Boat Ramp . I re-entered 14 minutes later, I must have forgotten something I do not remember doing this. It is not possible to drive to the Boat Ramp, fold the envelopes (I took between 30-40) and get back to City Hall within 14 minutes. So there is some confusion on returning to city hall.

ON the 29th I took out the Keys to the Boat Ramp Fee Box, and took envelopes out to the Box. Both the envelope side of the box and the Fee Box keys are on the same ring. You would have to manually disconnect them if you wanted to just take one. They have a paper label on them. I took the envelopes to the boat ramp and placed them in the envelope side of the fee box and did not open the other side of the box to collect any envelopes.

I was simply doing a house keeping chore that I had done many times before. I am the Mayor..I do lots of things for the City for no other reason than they need to be done. During summer, it's a good idea to make sure there are envelopes in the box.

If I ripped the paper tag off the keys at that time, I was unaware of it.

I do not recall there being any envelopes in the box when I went to fill the box. I cannot suggest any scenario where a "stack of envelopes" would have been on the ground unless someone vandalized the box by taking out the envelopes and someone else came along and stacked them up. I did neither.

I can only assume that the paper label on the keys was ripped off when I was replacing envelopes. The vandalism also explains why, if Mr. Wilson loaded 82 envelopes into the Fee Box, and only 45 were retrieved, there were no envelopes in the box on July 29.

The allegation is that I went out to the Boat Ramp on July 29 and accessed the Boat Ramp Fee Box. The allegation is that the 45 envelopes containing \$101 that was subsequently collected the next day is not all the envelopes. There is no evidence that any envelopes with fees in them, were taken by me or anyone else.

Although none of them have any evidence that I actually went in the receipt side of the box at all, just smearing me with an accusation is sufficient to satisfy this clique at the moment.

I have never abused my position as a City Official to take anything of value, either cash or favor.

I am sure that these people wish that to be the case and they probably believe it to be the case. However, they are just indulging themselves in their own slanderous imagines.

Regarding the City Manager's narrative BOAT RAMP FEE BOX ISSUE. Apparently the City Recorder, who served, from April 2017 to February 2018, did not enter the amounts in the ledger. I certainly thought I saw her itemizing them on a memo, and I assumed that they would be recorded properly elsewhere. However, I have no knowledge of how to navigate the Springbrook and have never been responsible for those duties.

If you do investigate these issues more fully, please ask the City Manager to go into detail about the accounting discrepancies of the City Recorder in question. Apparently, there is over \$43,000 of non-itemized receipts from her period with us that covers two fiscal years. The \$43,000 was simply recorded as "Miscellaneous" and the City is currently in the 5th month of paying an outside auditor to untangle the finances in order to get records sufficient to get our 2017/18 Audit accomplished. It's unclear why there is an exclamation point under that sentence. ("However when I reviewed our General Ledger I observed no revenue posted since **May 2017!**") Since that period corresponds to the same period when many revenue items were not posted and also corresponds to the tenure of that particular City Recorder, it has nothing to do with any function I performed. During the period in question, I was never in charge of itemizing anything for the General Ledger. If posting the receipts to the General Ledger comes to a halt in May 2017..that falls under the City Recorder's tenure..*why is that being entered as evidence of some wrongdoing on my part?*

When the City Manager came on the job July 16th, the tenor was to let him get his sea legs under him, faced with significant issues in the Audit department, and a staffing problem in the Water Plant. When the subject of the Boat Ramp fees came up, I brought him the box with the unopened envelopes (this was a particularly glue riddled set of envelopes that probably indicate that some of them had been in the fee box a long time, which corresponds with my statement that nobody seemed to be servicing the box during the winter, but it's just a guess) ..from the office that the Mayor and Councilors use and also the keys to the fee box. He explained to me at that time he would be creating a policy going forward. From that time on, I never opened the boat ramp fee box and I filled the envelopes one time on July 29 without removing the fee envelopes.

I was not informed of what the change in procedures was, prior to my putting envelopes in the box on July 29th.

The envelopes that I turned over to the City Manager contained \$264 in currency and two checks totalling \$6.00. That is the total amount that I collected from those boxes.

Thank you,

Christina Stanley

Mayor City of Gold Hill

HEDRICK Tammy R * OGEC

From: Christina Stanley <christina.stanley@ci.goldhill.or.us>
Sent: Tuesday, September 18, 2018 9:47 AM
To: HEDRICK Tammy R * OGEC
Subject: RE: Case No 18-178ETH ADDENDUM TO MY REPOSE..new information
Attachments: BOAT RAMP FEE LOG.pdf; CHRONOLOGY.docx

TO: Oregon State Ethics Commission

FR: Christina Stanley, Mayor Gold Hill

RE: Case No 18-178ETH

ADDENDUM TO MY REPOSE..new information

On Friday, September 14th I was finally able to obtain what might be a log of the Boat Ramp receipts from 7/24/2018 to 9/11/2018. A log where the entries are being logged on the dates cited. I have my own reason to believe that this log was constructed at one time, and not on the actual dates, but that is not important.

I am attaching a chronology of the receipts as recorded on the log, which validate my original guess that the weekly receipts go up and down according to variables like the weather, smoke index and random elements.

I was able to ascertain that when the receipts were collected on July 24, 2018..and recorded at their highest dollar amount, \$144..nobody knew how many days that represented. The City Manager said as much in his complaint.

The next week, July 24th, is the collection in question that Ethics was asked to investigate as a mishandling of funds.

I think that the record of the receipts verify that the \$101 collected on July 24, 2018 qualify as the second highest take for a 7 day week, during the period recorded.

I also discovered, after the date had passed to submit information to Ethics Commission, that subsequent to these events, where both the City Manager and myself made reference to the Security Time records, that anything either of us believed we knew about who was coming in and out of City Hall via those time stamps was moot. The City Manager was able to verify that the office staff, Denise Gomez and Hope Chiandra, routinely defeated the security system and left the alarm on the front door unarmed, allowing Tony Wilson to gain access into City Hall with a key he had to open the back door. Not only was Wilson able to go in and out of the building without anyone noticing. The City Manager spoke with the staff in City Hall sometime between August 31, and September 6th and made sure that the alarm system was set every time the office staff left the building. The City Manager did not make a note of this change in his manager's report. Tony Wilson was never given his own access code to enter City Hall but was seen entering the building via the back door on or around July 20th, by a resident after the front door alarm system was not armed by the office staff. Wilson would have had to have known the alarm system was not armed to make this entry. Wilson had to have known from the staff that his back door entry would not set off the alarm. It is unclear why Wilson would need entry into City Hall while regular office staff is not present. This discovery makes all claims that anyone knew who had access to City Hall or the keys in the key box, via those Security Logs...moot.

Also, I think this is very significant and something that factors into whether or not my servicing the box on my own was inappropriate, the City Manager informed the Council that he was putting in place, a two man system to pick up the Boat Ramp Fees. However, from the log, this appears to have only happened one time on July 24th, when Councilor Thom Canon went to the Fee Box with Tony Wilson. After that time, only Tony Wilson appears to be emptying the box,

solo. I have no problem with a Public Works worker, under the direction of the City Manager picking up the receipts. The fact that this practice is acceptable to the City Manager for all pick-ups after July 24th, makes the two man ceremony on July 24th, come off more as a performance.

This allegation is made all the more frustrating by the fact that NOBODY could defend themselves against the allegation. It's literally impossible to defend.

I have provided both the log that I received from City Manager Rob Lowe on 9/14/2018 and my own chronology for easy reading.

Mayor, Christina Stanley

OREGON GOVERNMENT ETHICS COMMISSION

INVESTIGATION

CASE NO: 18-179EHW

DATE: 02/28/2019

RESPONDENT: BERNARD, James, County Commissioner, Clackamas County

COMPLAINANT: ANDERSON, Shari, County Treasurer, Clackamas County

RECOMMENDED ACTION: Make a Preliminary Finding of two (2) violations of ORS 244.040(1), three (3) violations of ORS 244.120(2)

1 **SYNOPSIS:** James Bernard was a County Commissioner for Clackamas County
2 (County) when the events relevant to this investigation occurred. The focus of this
3 investigation was to determine whether a preponderance of evidence exists to indicate
4 that James Bernard violated the prohibited use of office provision, failed to disclose
5 conflicts of interest, or violated nepotism provisions of ORS Chapter 244.

6
7 This investigation reviewed James Bernard's attendance and participation in a number of
8 County Budget Committee meetings and study sessions, two executive sessions, and a
9 collection of emails related to the various meetings. The complaints alleged that he
10 participated in matters pertaining to cost-of-living, performance evaluation, discipline, and
11 other County business matters pertaining to his wife as a County employee.

12
13 Information gathered regarding the Budget Committee meetings indicates that Mr.
14 Bernard participated in discussions about the budget for the County department his wife
15 works in, and that his wife's salary is independent of her department's budget. A class
16 exception appears to apply to extent that Mr. Bernard may have participated in cost-of-
17 living-adjustments for his wife. Information is insufficient to indicate a violation of Oregon
18 Government Ethics law regarding Budget Committee meetings.

19 //

1 Information gathered regarding the study sessions indicates that these meetings were
2 focused on efforts by the County Commission to work towards resolving long-standing
3 confusion over the County's authority over its Tourism Development Council (TDC), and
4 it is part of Mr. Bernard's wife's job to support the TDC. To the extent that any personnel
5 matters were discussed, it was to determine who has authority. Information is insufficient
6 to indicate a violation of Oregon Government Ethics law regarding the study sessions.

7

8 Record of the 6/13/17 executive session indicates that Mr. Bernard participated in
9 discussion of a personnel matter involving his wife, but it is unclear whether the County
10 Commissions' consideration of the matter could have financially affected her. As a result,
11 information may be insufficient to indicate a violation.

12

13 Record of the 11/28/17 executive session indicates that Mr. Bernard left the meeting
14 without announcing a conflict when an agenda item arose pertaining to litigation that might
15 be filed against the County by his wife. Information appears sufficient to indicate a
16 violation of ORS 244.120(2) occurred.

17

18 Information indicates that Mr. Bernard sent emails to other County officials from his
19 County email on 11/20/17 and 11/29/17 in an attempt to encourage the release of
20 executive session records pursuant to his wife's desire to view the records in
21 contemplation of suing the County. Information appears sufficient to indicate that Mr.
22 Bernard violated ORS 244.040(1) and ORs 244.120(2) on each occasion.

23

24 There appears to be a preponderance of evidence to indicate that James Bernard used
25 or attempted to use his official position twice and failed to comply with the requirement to
26 publicly announce conflicts of interest three times.

27

28 **RELEVANT STATUTES:** The following Oregon Revised Statutes are applicable to the
29 issues addressed herein:

30 //

31 //

1 **ORS 244.020 Definitions.** As used in this chapter, unless the context requires
2 otherwise:

3
4 (1) "Actual conflict of interest" means any action or any decision or
5 recommendation by a person acting in a capacity as a public official, the effect of
6 which would be to the private pecuniary benefit or detriment of the person or the
7 person's relative or any business with which the person or a relative of the person
8 is associated unless the pecuniary benefit or detriment arises out of circumstances
9 described in subsection (13) of this section.

10
11 (2) "Business" means any corporation, partnership, proprietorship, firm, enterprise,
12 franchise, association, organization, self-employed individual and any other legal
13 entity operated for economic gain but excluding any income-producing not-for-
14 profit corporation that is tax exempt under section 501(c) of the Internal Revenue
15 Code with which a public official or a relative of the public official is associated only
16 as a member or board director or in a nonremunerative capacity.

17
18 (3) "Business with which the person is associated" means:

19
20 (a) Any private business or closely held corporation of which the person or
21 the person's relative is a director, officer, owner or employee, or agent or
22 any private business or closely held corporation in which the person or the
23 person's relative owns or has owned stock, another form of equity interest,
24 stock options or debt instruments worth \$1,000 or more at any point in the
25 preceding calendar year;

26
27 (b) Any publicly held corporation in which the person or the person's relative
28 owns or has owned \$100,000 or more in stock or another form of equity
29 interest, stock options or debt instruments at any point in the preceding
30 calendar year;

1 (c) Any publicly held corporation of which the person or the person's relative
2 is a director or officer; or

3
4 (d) For public officials required to file a statement of economic interest under
5 ORS 244.050, any business listed as a source of income as required under
6 ORS 244.060 (3).

7
8 (13) "Potential conflict of interest" means any action or any decision or
9 recommendation by a person acting in a capacity as a public official, the effect of
10 which could be to the private pecuniary benefit or detriment of the person or the
11 person's relative, or a business with which the person or the person's relative is
12 associated, unless the pecuniary benefit arises out of the following:

13
14 (a) An interest or membership in a particular business, industry, occupation
15 or other class required by law as a prerequisite to the holding by the person
16 of the office or position.

17
18 (b) Any action in the person's official capacity which would affect to the
19 degree a class consisting of all inhabitants of the state, or a smaller class
20 consisting of an industry, occupation or other group including one of which
21 or in which the person, or the person's relative is associated, in a member
22 or is engaged * * *.

23
24 (15) "Public official" means the First Partner and any person who, when an alleged
25 violation of this chapter occurs, is serving the State of Oregon or any of its political
26 subdivisions or any other public body as defined in ORS 174.109 as an elected
27 official, appointed official, employee or agent, irrespective of whether the person is
28 compensated for the services.

29 //

30 //

31 //

1 (16) "Relative" means:

2 (a) The spouse, parent, stepparent, child, sibling, stepsibling, son-in-law or
3 daughter-in-law of the public official or candidate * * * .
4

5 **ORS 244.040 Prohibited use of official position or office; exceptions; other**
6 **prohibited actions.** (1) Except as provided in subsection (2) of this section, a
7 public official may not use or attempt to use official position or office to obtain
8 financial gain or avoidance of financial detriment for the public official, a relative or
9 member of the household of the public official, or any business with which the
10 public official or a relative or member of the household of the public official is
11 associated, if the financial gain or avoidance of financial detriment would not
12 otherwise be available but for the public official's holding of the official position or
13 office.
14

15 (7) The provisions of this section apply regardless of whether actual conflicts of
16 interest or potential conflicts of interest are announced or disclosed under ORS
17 244.120.
18

19 **ORS 244.120 Methods of handling conflicts; Legislative Assembly; judges;**
20 **appointed officials; other elected officials or members of boards.** (2) An
21 elected public official, other than a member of the Legislative Assembly, or an
22 appointed public official serving on a board or commission, shall:
23

24 (a) When met with a potential conflict of interest, announce publicly the
25 nature of the potential conflict prior to taking any action thereon in the
26 capacity of a public official; or
27

28 (b) When met with an actual conflict of interest, announce publicly the
29 nature of the actual conflict and: (A) * * * [R]efrain from participating as a
30 public official in any discussion or debate on the issue out of which the
actual conflict arises or from voting on the issue.

1 (3) Nothing in subsection (1) or (2) of this section requires any public official to
2 announce a conflict of interest more than once on the occasion which the matter
3 out of which the conflict arises is discussed or debated.

4
5 **ORS 244.177 Employment of relative or member of household.** (1) Except as
6 provided in subsections (2) to (4) of this section:

7
8 (a) A public official may not appoint, employ or promote a relative or
9 member of the household to, or discharge, fire or demote a relative or
10 member of the household from, a position with the public body that the
11 public official serves or over which the public official exercises jurisdiction
12 or control, unless the public official complies with the conflict of interest
13 requirements of this chapter.

14
15 (b) A public official may not participate as a public official in any interview,
16 discussion or debate regarding the appointment, employment or promotion
17 of a relative or member of the household to, or the discharge, firing or
18 demotion of a relative or member of the household from, a position with the
19 public body that the public official serves or over which the public official
20 exercises jurisdiction or control. As used in this paragraph, "participate"
21 does not include serving as a reference, providing a recommendation or
22 performing other ministerial acts that are part of the normal job functions of
23 the public official.

24
25 **ORS 244.179 Supervision of relative or member of household.** (1)
26 Notwithstanding ORS 659A.309 and except as provided in subsections (2) to (4)
27 of this section, a public official acting in an official capacity may not directly
28 supervise a person who is a relative or member of the household.

29 //

30 //

31 //

1 **INVESTIGATION:** The Oregon Government Ethics Commission (Commission) initiated
2 a preliminary review based on information in a signed complaint from Clackamas County
3 Treasurer, Shari Anderson, on 8/15/18 (#PR1). A copy of the complaint was provided to
4 the respondent. In the complaint, Ms. Anderson alleged that James Bernard, a
5 Clackamas County Commissioner, may have violated Oregon Government Ethics law.
6 The Commission found cause to investigate on 9/21/18, after considering the information
7 developed in preliminary review. The focus of the investigation was to determine if there
8 is sufficient evidence to indicate that James Bernard violated any of the following
9 provisions: ORS 244.040(1) (prohibiting use or attempted use of official position), ORS
10 244.120(2) (requiring disclosure of conflicts of interest), ORS 244.177 (prohibiting
11 employment of relatives) or ORS 244.179 (prohibiting direct supervision of relatives).
12 James Bernard and Shari Anderson have been notified of the Commission action in this
13 matter. Both have been invited to provide any information that would assist the
14 Commission in conducting this investigation.

15 16 17 **BACKGROUND**

18 According to information in the complaint, James Bernard took office as a Clackamas
19 County Commissioner in 2009, and has been a member of the Clackamas County Budget
20 Committee from 2009 to 2018. His wife, Danielle Cowan is employed as the Executive
21 Director of Clackamas County Tourism and Cultural Affairs (Tourism Department).
22 (#PR1)

23 According to information obtained from the respondent, as Executive Director of the
24 County Tourism Department, Ms. Cowan works, at least in part, under the direction of the
25 County Tourism Development Council (TDC), which is a nine-member body appointed by
26 the Board of County Commissioners (Clackamas County Code, § 8.02.160(B)). (#PR2)

27
28 According to County records and information from both the complainant and respondent,
29 there appears to be long-standing contention regarding the autonomy of the TDC's
30 operations in relation to the County. In 2017, the TDC and the County agreed to hire
outside counsel to analyze and assist in resolving the issue. Outside counsel delivered

1 its written analysis to the TDC and the Board of County Commissioners in January 2018.
2 It appears that Ms. Cowan participated in the matter as Director of Tourism Department,
3 and Mr. Bernard participated in the matter as a County Commissioner. (#PR1; #PR2;
4 #INV1)

5 6 COMPLAINT

7 The complaint makes the following allegations:
8

- 9 • On 6/1/17 and 3/31/18, Mr. Bernard was present for and commented on Danielle
10 Cowan's departmental budgets, and since 2009 has participated in Ms. Cowan's
11 cost of living adjustments, in County Budget Committee meetings, without
12 announcing or disclosing any conflicts of interest.
13
- 14 • On 6/13/17, Mr. Bernard was present for and participated in an executive session
15 of the County Board of Commissioners during which a personnel matter involving
16 Commissioner Bernard's wife and a procurement employee was discussed,
17 without disclosing a conflict of interest. (The complainant was not present for the
18 executive session and does not have access to the record; the allegation was
19 based on her access to emails sent in November 2017, which are excerpted
20 below.)
21
- 22 • On 1/17/18 and 1/23/18 James Bernard presided over County Commission study
23 sessions concerning the independence of the County's Tourism and Cultural
24 Affairs Department, without disclosing any conflicts of interest concerning his
25 relationship to his wife, Danielle Cowan, who is the Director.
26
- 27 • On 3/27/18 Mr. Bernard announced a potential conflict of interest at the beginning
28 of a third study session to discuss the independence of Ms. Cowan's department,
29 but over the course of the meeting also participated in a discussion regarding the
30 "hiring, firing and discipline of" Ms. Cowan, his wife, without making any further
31 conflict of interest disclosure.

- 1 • On 7/17/18, Mr. Bernard participated in a County Commission study session that
2 was held for the purpose of reviewing a Memorandum of Understanding (MOU)
3 between Ms. Cowan's department and Clackamas County, and that the MOU
4 "outlines the selection, performance and pay for the Executive Director, a position
5 currently held by Danielle Cowan." (#PR1)
6

7 The complaint also included several email attachments in which Mr. Bernard, Ms. Cowan
8 and other County officials discussed the County's dispute over the TDC's authority.
9 Among these is a (highlighted) 10/3/17 email that was sent by Mr. Bernard to other County
10 officials. The email is in response to the County's contemplation of hiring independent
11 legal counsel to review the matter, and Mr. Bernard requests that one of questions he
12 wants answered is whether the TDC has "independent authority to hire and supervise its
13 own staff." (#PR1)
14

15 INFORMATION RELATED TO THE BUDGET MEETINGS

16 The complainant attached links to recordings of the two Budget Committee meetings
17 (occurring on 6/1/17 and 3/31/18) that were mentioned in the complaint. The Commission
18 investigator reviewed the recordings of both meetings in full, and the only discussion that
19 the Committee had in relation to Ms. Cowan was the discussion of the County's Tourism
20 & Culture budget. At neither the 6/1/17 meeting nor 3/31/18 meeting does the Committee
21 discuss cost of living adjustments. The complaint specifically pointed out a portion of the
22 discussion beginning approximately twenty-five minutes into the 6/1/17 meeting in which
23 Mr. Bernard "questions his wife Danielle Cowan about the Tourism budget" and speaks
24 "in glowing terms" about the Tourism Department. (#PR1; #INV1)
25

26 INFORMATION ARISING FROM THE 6/13/17 EXECUTIVE SESSION

27 [STET] The County provided a redacted version of the audio and meeting notes for this
28 executive session pursuant to a subpoena request by the Commission investigator.
29 (#INV1)

30 //

31 //

1 According to a County document, the County Commission met in this executive session
2 for four purposes: to deliberate on property negotiations (per ORS 192.660(2)(e)), to
3 consider information or records exempt from public inspection (per ORS 192.660(2)(f)),
4 to consult with counsel regarding litigation or litigation likely to be filed (per ORS
5 192.660(2)(h)), and to deliberate regarding labor negotiations (per ORS 192.660(2)(d)).
6 (#INV1)

7

8 However, based on the Commission investigator's review of the meeting audio and notes,
9 it is unclear which of the stated purposes for convening was intended to cover the portion
10 of meeting discussion that is relevant to this investigation. At the outset of the audio, it
11 appears that the matter the County Commission set out to discuss was related to legal
12 opinions and issues involving the nature of the relationship between the TDC and the
13 County. After approximately four minutes of discussing those matters, an unidentified
14 participant suggests that Mr. Bernard should "recuse" himself and then turns the
15 discussion to a possible personnel matter involving Ms. Cowan as the Tourism
16 Department Director, which the County Commissioners continue to discuss on and off for
17 approximately the next twenty minutes. At one point, Mr. Bernard inquires as to why
18 everyone except him had been informed of the matter, and an unidentified participant
19 responds that he was intentionally excluded, because that matter involves his wife and
20 might create a conflict of interest for him. After that, Mr. Bernard continues to participate.
21 Over the course of the discussion, several comments are made by various participants in
22 an attempt to end the discussion of the personnel matter involving Ms. Cowan as a result
23 of it not being part of the agenda and due to Mr. Bernard's participation in the meeting.
24 (#INV1)

25

26 11/16/17 letter from Ms. Cowan's attorney to County Counsel: Sometime after the
27 executive session on 6/13/17, Ms. Cowan apparently became aware of the discussion
28 about her in the executive session. It is not clear how she learned of the discussion. Based
29 on emails exchanged between County Counsel and the Commissioners, as well as the
30 letter from Ms. Cowan's attorney (all of which were attached to the complaint), Ms. Cowan
31 retained the attorney as a result of learning about the subject of the discussion in the

1 6/13/17 executive session. The letter from Ms. Cowan's attorney is excerpted below:
2

3 "Ms. Cowan has information that false and defamatory statements were made
4 about her during an executive session of the Board of County Commissioners on
5 * * * [6/13/17]. If true, Ms. Cowan may have legal claims against Clackamas County
6 * * *. * * * I invite you to share with me all recordings and minutes of the executive
7 session in question so that we may determine the veracity of the information * * *.
8 * * * * Please respond no later than * * * [11/27/17] so that we have sufficient time
9 to review * * * before upcoming tort claim deadlines come into play." (#PR1)
10

11 11/20/17 email from Mr. Bernard to fellow County Commissioner, Sonya Fischer:
12 Information contained in emails that were attached to the complaint indicates that the
13 County Commission was planning to schedule a meeting to determine whether or not to
14 deny the request for executive session records made by Ms. Cowan's attorney. In regard
15 to that determination, Mr. Bernard sent the email excerpted below:

17 "The mere presence of an attorney during executive session does not make the
18 entire session *de facto* privileged * * * (several legal sources are cited in the original
19 email). * * * Discussions that did not implicate legal advice relate[d] to pending
20 litigation are not privileged from discovery. Only the portions of the * * * meetings
21 discussing confidential information disclosed to the attorney or [legal] advice * * *
22 related to pending or anticipated litigation are privileged * * *. * * * Thus, even if it
23 were true that * * * the executive session * * * included communications made for
24 the purpose of rendering legal advice, the entire meeting is not necessarily
25 privileged. If there were discussions among board members or other attendees
26 outside the scope of attorney-client communications for the purpose of rendering
27 legal advice, they must be disclosed." (#PR1)
28

29 11/28/17 Executive Session: During the investigation, the complainant informed the
30 Commission investigator that she believed the County Commission held an executive
31 session on 11/28/17 to discuss the letter from Ms. Cowan's attorney and that Mr. Bernard

1 was present and participated. The County provided a redacted version of the audio and
2 meeting notes for this executive session pursuant to a subpoena request by the
3 Commission investigator. (#INV1)

4
5 County records indicate that the part of this executive session that is relevant to the
6 investigation was convened to discuss potential litigation or litigation likely to be filed
7 (pursuant to ORS 192.660(2)(h)) after the County received the letter from Ms. Cowan's
8 attorney, which requested release of the 6/13/17 executive session audio recording and
9 stated that she might sue the County. (#INV1)

10
11 Based on the Commission investigator's review of the meeting audio and notes, it
12 appears that although Mr. Bernard was present to discuss other noticed topics during this
13 executive session, he had left the room prior to the subject of the letter from Ms. Cowan's
14 attorney being discussed. This seems to be the case, because at approximately one
15 minute and thirty seconds into the discussion, an unidentified speaker that appears to be
16 County Counsel, Mr. Madkour, states that "the chair has left the room" (the chair is Jim
17 Bernard). The notes taken from the meeting also state that "JB excused himself for this
18 discussion." There is no indication that Mr. Bernard disclosed a conflict of interest on the
19 matter, either during the executive session or leading up to it. (#INV1)

20
21 The Commissioners who were present came to a consensus on whether or not to release
22 the 6/13/17 executive session recording to Ms. Cowan's attorney. (#INV1)

23
24 11/29/17 email from Mr. Bernard to County Administrator and County Counsel: The
25 following email was sent one day after Mr. Bernard's fellow County Commissioners came
26 to a consensus on how to respond to Ms. Cowan's attorney's request for records
27 pertaining to the 6/13/17 executive session.

28
29 ** * * * * If there is nothing on the tape either of you are concerned with I advise
30 that you go back to the [County] [C]ommission and get permission to release the
31 tape. * * * I will support my wife in any[]way possible just as both of you would. We

1 have made huge effort to separate our relationship from work but in this
2 circumstance family is number 1. * * * [O]ne of my rules * * * has been to keep us
3 out of court and public scrutiny. That is why I think her lawyer should be given
4 access to the file.” (#PR1)

5
6 INFORMATION RELATED TO THE STUDY SESSIONS

7 1/17/18 Study Session: According to a County memorandum that was provided to the
8 County Board of Commissioners on 1/10/18, the purpose of the 1/17/18 study session
9 was to “discuss contents and conclusions of Mr. Steven C. Berman’s review of the
10 authority of Clackamas County and autonomy of the [TDC].” Attached to the memo were
11 two documents that the Commissioners would be considering in the 1/17/18 meeting: the
12 first document is a copy of Mr. Berman’s legal analysis, which is addressed to a number
13 of County officials; the other is a letter from John Erickson, the TDC Chair, addressed to
14 Mr. Bernard and ccing the Board of Commissioners. (#INV1)

15
16 Based on the Commission investigator’s review of the full audio recording of the meeting,
17 it appears that the Commissioners did discuss the two documents and other concerns
18 pertaining to the County’s authority over the TDC. There did not appear to be any specific
19 discussion of Ms. Cowan or more general matters pertaining to employment of County or
20 Tourism Department employees. No conflict of interest was announced. (#INV1)

21
22 1/23/18 Study Session: The County document that appears to have served as the agenda
23 for the 1/23/18 study session (entitled “County Administrator Issues/Updates”) lists nine
24 agenda items, one of which is to discuss a “BCC/TDC Retreat.” (#INV1)

25
26 Based on the Commission investigator’s review of the full audio recording of the meeting,
27 this was the only agenda item that might have directly pertained to Ms. Cowan as Tourism
28 Department Director. The discussion was limited to the question of whether it might be a
29 good idea to schedule a retreat for the Board of County Commissioners and the TDC in
30 order to attempt to resolve their issues. (#INV1)

31 //

1 3/27/18 Study Session: The County meeting materials received pursuant to the
2 Commission investigator's subpoena contained a document stating that "[d]ue to
3 technical difficulties, not all of the meeting was able to be recorded," and no minutes or
4 other notes documenting what transpired were provided (but the two documents
5 considered in the 1/17/18 study session appear to have been the same meeting materials
6 on this date too). (#INV1)

7

8 Based on the Commission investigator's review of the approximate two hours and fifty-
9 eight minutes of audio recording available, this meeting also appears to have been
10 focused on settling the TDC and County Commission's dispute regarding the degree of
11 the TDC's independence versus the County's authority. (#INV1)

12

13 At the very beginning of the meeting, prior to any discussion, Mr. Bernard announced a
14 potential conflict of interest in the matter with regard to his wife, Ms. Cowan. However,
15 there did not appear to be any specific discussion of matters that might financially affect
16 Ms. Cowan alone, or County or Tourism Department employees more generally. (#INV1)

17

18 7/17/18 Study Session: The County document that appears to have served as the agenda
19 for this study session (entitled "County Administrator Issues/Updates") lists seven items
20 for discussion, one of which is to discuss the "BCC/TDC MOU." Based on the Commission
21 investigator's review of the full audio recording, this was the only topic of discussion
22 related to Ms. Cowan or the Tourism Department. This part of the meeting involved the
23 Commissioners reviewing and discussing a draft MOU that was being created to serve
24 as an agreement between the County and the TDC regarding their authorities. The
25 meeting participants discussed the employment of the Tourism Department Executive
26 Director in terms of how the MOU might affect *future* hiring decisions. (#INV1)

27

28 A copy of the MOU was provided with the complaint. One section pertains to Ms. Cowan's
29 employment as Tourism Department Executive Director (it was also highlighted). Section
30 (II)(2)(c) of the MOU states as follows:

31 //

1 "The Tourism Development Council agrees * * * [t]o work closely with the County
2 Administrator regarding the selection and performance evaluations of the [Tourism
3 Department] Executive Director. The TDC and Administrator will annually jointly
4 evaluate the performance of the Executive Director and work to mutually agree
5 upon needed direction, professional development objectives, goals for the ensuing
6 year and performance-based remuneration[.]" (#PR1)

7
8 Although a letter from the respondent's attorney received during preliminary review
9 (excerpted below) states that Mr. Bernard "disclosed the potential conflict at the meeting,"
10 the Commission investigator was unable to identify any point where Mr. Bernard
11 announced a conflict of interest. The Commission investigator listened to the audio for
12 the full meeting once, and listened to the audio on the first two agenda items
13 ("Commissioner Communications" and "BCC/TDC MOU") approximately three to four
14 times. (#PR2; #INV1)

15 16 RESPONSE

17 Upon receiving notice that a complaint had been filed, Mr. Bernard engaged attorney
18 Steve Berman of Stoll Berne to represent him in this matter. In a letter received by
19 Commission staff on 9/5/18, Mr. Berman responded on his client's behalf to the
20 allegations made in the complaint. Excerpts of that response are provided below:

21
22 * * * * * The Board of County Commissioners plays no role in determining
23 employee compensation. *See generally* Code, Chapter 2.05 * * *. Compensation
24 for Clackamas County employees, including the Executive Director of the [County
25 Tourism Department], is determined by the County's Department of Employee
26 Services, under the direction of the Clackamas County Administrator. *See*
27 *generally* Code § 2.05.060. The Board of County Commissioners similarly does
28 not supervise county employees * * *. The job description for the position of
29 Executive Director * * * provides that she operates '[u]nder administrative direction
30 of the County Administrator and policy direction from the Board of County
Commissioners and the Clackamas County Tourism Development Council.' * * *

1 Ms. Cowan's employment agreement with the County [a copy of which is included
2 with this response] specifies that she reports to, and is supervised by, the County
3 Administrator. * * * * *

4
5 Ms. Anderson blurs the distinction between * * * 'Danielle Cowan's department'
6 and Ms. Cowan's compensation. * * * Ms. Cowan is a Clackamas County
7 employee. Her terms and conditions of employment are set by the County
8 Administrator pursuant to a County-wide schedule for employees. The [Tourism
9 department] budget does not determine Ms. Cowan's compensation. * * *

10
11 [His voting on cost of living adjustments] would not constitute a conflict of interest
12 * * * [a]s * * * there is no conflict of interest regarding '[a]ny action in the person's
13 official capacity which would affect to the same degree a class [of persons] * * *.'
14 ORS 244.020(13) * * *. * * * * *

15
16 [During the Commission investigation, Mr. Berman followed up with additional information
17 regarding County employee salaries and cost of living adjustments on 1/8/19. In Mr.
18 Berman's letter, he quotes a letter of advice signed by Director Bersin in 2018, stating
19 that "[a]n example of a 'class exception' would be if a public official were asked to approve
20 a 2% cost-of-living raise for all teachers at Logos [(a public charter school)], an action *that*
21 would affect all members of the class to the same proportional degree, and therefore be
22 an exception to the conflict of interest" (OGEC Op. 18-1301). To that end, Mr. Berman's
23 letter also included an attachment written by Clackamas County Counsel, Mr. Madkour,
24 which states that the County Commission approved cost-of-living adjustments (COLA) for
25 all non-represented employees, which includes Ms. Cowan, in July 2015, July 2016, July
26 2017 and July 2018, and that all non-represented employees (such as Ms. Cowan)
27 received COLA adjustments for the exact same percentage increase each time. The
28 attachment authored by Mr. Madkour also shows the number of non-represented
29 employees affected by the COLA adjustment in each year: in 2015 it affected 273
30 employees; in 2016 it affected 325 employees; in 2017 it affected 340 employees; and in
31 2018 it affected 344 employees.]

1 Both the [6/1/17] and [3/31/18] [Budget Committee] meetings [mentioned in the
2 complaint] involved a general discussion of the [County Tourism Department]
3 budget and did not involve or otherwise address Ms. Cowan's employment or
4 compensation. * * * * *

5
6 [Regarding the] November 2017 [emails], Ms. Cowan's lawyer sent a demand
7 letter to the County requesting a copy of the recording of the [6/13/17] executive
8 session. County Counsel forwarded the request to Commissioner Bernard and the
9 County Administrator * * *. * * * Commissioner Bernard[is 11/20/17] * * * email * *
10 * to Commissioner Sonya Fischer * * * contained a legal analysis of the scope of
11 attorney-client privilege in executive sessions. * * * [His 11/29/17 email to] the
12 County Administrator and County Counsel [was] discussing an unrelated lawsuit
13 threatened against the county [by Ms. Cowan] and encouraging them to ask the
14 Board of County Commissioners to reconsider releasing the recording of the
15 [6/13/17] executive session to Ms. Cowan's attorney, to avoid litigation costs. * * *
16 [In] Commissioner Bernard[is 11/29/17] email, he is not authorizing release of the
17 executive session recording to Ms. Cowan's lawyer, but rather asking County
18 Counsel and the County Administrator whether they should ask the Board of
19 Commissioners to release the tape. He asks, not because he is motivated by
20 personal gain for him or his wife, but rather to keep the County "out of court and
21 public scrutiny" and to avoid litigation costs.

22
23 [The study sessions were held because] Clackamas County and the TDC hired
24 outside counsel to analyze the Board of County Commissioners' authority over the
25 TDC. On [1/17/18], the Board of County Commissioners held a study session to
26 discuss that analysis with Clackamas County Counsel and the County
27 Administrator. * * * [N]o conflict arose. * * * Ms. Cowan's compensation, and the
28 terms and conditions of her employment * * * were not discussed. * * *

29 //

30 //

31 //

1 At [the study session on 1/23/18] the Board of County Commissioners discussed
2 nine different topics, including briefly, whether there should be a * * * retreat to
3 address the relationship between the TDC and the Board of Commissioners. * * *

4
5 On 3/27/18, the TDC and the Board held a joint, public meeting to discuss outside
6 counsel's analysis. The discussion focused on the authority of the TDC, and did
7 not address the terms and conditions of Ms. Cowan's employment. * * *
8 Commissioner Bernard had been informed that Ms. Anderson was contemplating
9 filing a complaint [so] [a]t the outset of the meeting, and in an abundance of
10 caution, Commissioner Bernard stated that there was a potential conflict of interest
11 * * * * *

12
13 [The 7/28/18] study session [was to] * * * discuss a draft memorandum of
14 understanding [(MOU)] between the County and the TDC * * * [which did] not
15 address, in any way, Ms. Cowan's employment or any issue that would inure to
16 the financial benefit of Commissioner Bernard or Ms. Cowan. * * * A subparagraph
17 of the * * * [MOU] provides that the TDC will work with the County Administrator to
18 select and evaluate the performance of [the position held by Ms. Cowan] and
19 annually set goals for "performance-based remuneration." * * * Even if voting on *
20 * * the MOU could rise to the level of potential conflict of interest, Commissioner
21 Bernard disclosed the potential conflict at the meeting." (#PR2; #INV2)

22
23 **CONCLUSIONS:** James Bernard was a Clackamas County Commissioner during the
24 period relevant to this case. As such, James Bernard was a "public official" (per ORS
25 244.020(15)) and therefore subject to ORS Chapter 244 Oregon Government Ethics law.

26
27 Danielle Cowan, as Commissioner Bernard's wife, is considered his "relative" for the
28 purpose of Oregon Government Ethics law (per ORS 244.020(16)).

29 //

30 //

31 //

1 The County Tourism Department where Ms. Cowan is employed as Executive Director is
2 not considered a business with which she or Mr. Bernard is associated, because a public
3 entity or division thereof does not meet the definition of "business" under Oregon
4 Government Ethics law (ORS 244.020(2)-(3)).

5
6 In relevant part, ORS 244.040(1) prohibits public officials from using or attempting to use
7 their official positions to obtain a financial benefit for themselves, their relatives or any
8 business with which either is associated, that would not otherwise be available but for
9 holding the public position. This prohibition applies whether or not a public official
10 discloses a conflict of interest (ORS 244.040(7)).

11
12 A public official is met with either an actual or potential conflict of interest when
13 participating in an official capacity (in this case as a county commissioner), in any action,
14 decision, or recommendation, if the effect would or could be to the private financial benefit
15 or detriment of himself, a relative, or any business with which he or a relative is associated
16 (ORS 244.020(1) and (13)).

17
18 An elected official such as a county commissioner, when met with any conflict of interest,
19 must publicly announce the conflict each time it arises, although he is not required to
20 announce it more than once on a given occurrence (i.e., more than once in a meeting).
21 If the conflict is actual, he must also refrain from any discussion, debate or vote on the
22 issue giving rise to the conflict. If the conflict is potential, he may participate in official
23 actions following his public disclosure (ORS 244.120(2)).

24
25 However, there is an exception to the conflict of interest requirements if the financial
26 impact arises out of an official action, which would affect to the same degree an entire
27 "class" of persons that the public official or his relative is a member of (ORS
28 244.020(13)(b); see *also* ORS 244.020(1)).

29 //
30 //
31 //

1 The nepotism provisions of Oregon Government Ethics law generally prohibit a public
2 official from participating in an official capacity in the hiring, promotion, demotion,
3 dismissal, or direct supervision of any of the public official's relatives who hold a paid
4 public position with the same jurisdiction (ORS 244.177 – 179).

5
6 THE BUDGET MEETINGS

7 According to the available information, James Bernard commented on the Tourism
8 Department budget in meetings that took place on 6/1/17 and 3/31/18, and he may also
9 have voted to approve cost-of-living salary adjustments for his wife in other meetings.

10
11 Although Mr. Bernard made comments about the Tourism budget on 6/1/17 and 3/31/18,
12 the subject of those comments and the broader discussion did not appear to be of a nature
13 that might financially affect his wife. To the extent that the Tourism budget was discussed,
14 information obtained from Mr. Berman and County Counsel indicates that Ms. Cowan's
15 salary is not tied in any way to the Tourism budget; rather, her salary is determined by
16 the County Department of Employee Services, under direction of the County
17 Administrator, in the same way as all other non-represented County employees.

18
19 With regard to the complaint's more general allegation that Mr. Bernard participated in
20 cost-of-living-adjustments for his wife, neither of the meetings noted in the complaint
21 (6/1/17 or 3/31/18) contained any such discussion. Regardless, as noted above,
22 information from the respondent and County Counsel indicates that Ms. Cowan's salary
23 is determined in the same way as all of the County's other non-represented employees.
24 Moreover, the information from County Counsel indicates that all non-represented
25 employees such as Ms. Cowan have received the same percentage raise at the same
26 time every year, and that well over 200 County employees are "non-represented" (dating
27 at least as far back as the Commission's statute of limitation goes, which is four years).
28 This information suggests that a "class" exception exists, and as a result, Mr. Bernard
29 would not be required to announce a conflict of interest before participating in the matter.

30 //

31 //

1 Information is insufficient to determine that Mr. Bernard violated Oregon Government
2 Ethics conflict of interest (ORS 244.120(2)), use of office (ORS 244.040(1)) or nepotism
3 (ORS 244.177 – 179) provisions in the County Budget meetings.
4

5 TDC STUDY SESSIONS & RELATED EMAILS

6 According to the available information, the general purpose and content of all four of the
7 study sessions (1/17/18, 1/23/18, 3/27/18, 7/17/18) appears to have involved discussions
8 and efforts to work towards resolving confusion as to the extent of the County's authority
9 over the TDC. Many of the emails that were submitted with the complaint read largely
10 similarly, such as the one sent by Mr. Bernard on 10/3/17 requesting that the attorney
11 contracted to assist with the issue look into whether the TDC has "independent authority
12 to hire and supervise its own staff."
13

14 As indicated above with regard to the Budget Committee meetings, Ms. Cowan's salary
15 is determined independently of the Tourism budget by the County Department of
16 Employee Services, in the same way as all of the County's other non-represented
17 employees. Moreover, to the extent that any discussions of hiring, supervising or
18 personnel matters took place, it was simply in the context of answering questions about
19 which entity (the County or TDC) has the authority to do what. Participating in a
20 deliberation of the policy decision about which entity or person will be responsible for
21 hiring, supervising and other personnel matters relating to a particular positions, is
22 different from participating in the actual hiring, supervising or other personnel matter
23 concerning a relative. In this case, the fact that the study sessions were limited to
24 discussions of the former appears to indicate that Ms. Cowan did not stand to be
25 financially affected, so Mr. Bernard does not appear to have been required to announce
26 any conflicts of interest and did not violate the prohibited use of office. Nor did he violate
27 any nepotism provision.
28

29 While the complaint specifically alleged that Mr. Bernard participated in a discussion
30 regarding the "hiring, firing and discipline of" Ms. Cowan during the 3/27/18 meeting, the
31 Commission investigator's impression was that the discussion was more in the context of

1 a policy discussion to determine who is responsible for such tasks not a discussion
2 concerning the hiring, firing or discipline of Ms. Cowan herself. Therefore, participating in
3 those discussions did not violate the nepotism laws. Regardless, Mr. Bernard announced
4 a potential conflict of interest with regard to his wife at the very beginning of the meeting,
5 before any items were discussed, and Mr. Bernard is not required to announce a conflict
6 involving the same matter more than once in a meeting (ORS 244.120(2) – (3)). It does
7 not appear Mr. Bernard violated the conflict of interest or prohibited use of office
8 provisions either in the 3/27/18 meeting.

9

10 The complaint also specifically alleged that the MOU discussed in the 7/17/18 meeting
11 “outlines the selection, performance and pay for the Executive Director, a position
12 currently held by Danielle Cowan.” Based on the Commission investigator’s review, the
13 MOU only appears to mete out who is responsible for determining the selection,
14 performance and pay of Executive Director and how the County and TDC will share those
15 responsibilities, so nepotism law does not appear to have been violated. It also does not
16 appear that Ms. Cowan could be financially affected by that matter in itself. As a result,
17 Mr. Bernard does not appear to have violated conflict of interest or prohibited use of office
18 either.

19

20 Information is insufficient to determine that Mr. Bernard violated Oregon Government
21 Ethics conflict of interest (ORS 244.120(2)), use of office (ORS 244.040(1)) or nepotism
22 (ORS 244.177 – 179) provisions in the County study session meetings.

23

24 6/13/17 EXECUTIVE SESSION

25 Information indicates that Mr. Bernard was present for and participated in this executive
26 session during which a personnel matter involving his wife and another employee was
27 discussed. However, information is unclear as to whether Ms. Cowan might stand to be
28 financially affected as a result of the County Commission’s deliberation. As a result, the
29 information is insufficient to determine that Mr. Bernard violated ORS 244.120(2) or use
30 of office (ORS 244.040(1)) in the 6/13/17 executive session meeting.

31 //

1 Information is also insufficient to determine that Mr. Bernard violated ORS 244.177 – 179.
2 Mr. Bernard's involvement was limited to deliberating on one personnel issue for a matter
3 of minutes, and he was expressly intended to be excluded from the discussion. Moreover,
4 the information gathered indicated that the TDC, not the County Commission, "directly"
5 supervises the position held by Commissioner Bernard's wife.
6

7 11/28/17 EXECUTIVE SESSION

8 The County Commission appears to have deliberated on several topics during this
9 meeting, one of which was the question of whether or not to release the 6/13/17 executive
10 session records to Ms. Cowan's attorney. The complainant provided information during
11 investigation alleging that Mr. Bernard was present for and participated in the meeting.
12

13 ORS 244.120(2) requires a public official who has a potential conflict of interest to publicly
14 announce the conflict prior to participating in the matter. As a result of the concern Mr.
15 Bernard expressed for saving the County from additional litigation costs in his response
16 to the Commission, he also had reason to be aware that his wife could have a similar
17 financial interest in release of the records as well.
18

19 Based on County records, it appears that Mr. Bernard was present to discuss other
20 matters in this executive session, but effectively recused himself from participation in the
21 discussion involving the records request from Ms. Cowan's attorney without announcing
22 any conflict of interest. Generally speaking, merely excusing one's self from the room
23 during the discussion of a particular agenda item that is part of a meeting in which you
24 are a participant is not sufficient to satisfy ORS 244.120(2). Rather, such actions appear
25 to obviate and undermine the requirement to publicly announce conflicts of interest.
26 Information is sufficient to determine that Mr. Bernard violated ORS 244.120(2) as a result
27 of failing to disclose his potential conflict of interest.
28

29 Insufficient evidence exists to determine that Mr. Bernard violated the prohibited use of
30 office (ORS 244.040(1)) or nepotism (ORS 244.177 – 179) provisions in this meeting,
because Mr. Bernard did not actually participate in the matter involving his wife.

1 EMAILS SENT BY MR. BERNARD ON 11/20/17 & 11/29/17

2 The 11/20/17 email was sent approximately one week prior to the executive session
3 during which the records release to Ms. Cowan's attorney was considered (on 11/28/19),
4 and the 11/29/17 email was sent one day after. The 11/20/17 email, addressed to a fellow
5 County Commissioner who ultimately attended and participated in the 11/28/19 executive
6 session, appears to present a legal argument advocating or asserting that the records
7 should be released. The 11/29/17 email "advise[s]" County Counsel and the County
8 Administrator to "go back to the [County] [C]ommission and get permission to release * *
9 *."

10
11 Mr. Bernard's emails were concerned about his wife's request to receive the records so
12 that she could review them for a potential tort claim. She had already hired an attorney
13 who submitted the request. She clearly had a financial interest in obtaining the records.
14 If the county did not turn them over she might incur additional legal costs trying to obtain
15 them. And the records were sought for a potential tort action in which she would seek
16 money damages. Mr. Bernard sent the emails from his county email address and both
17 emails urged disclosure of the emails to his wife. In the second email he admitted that in
18 making his request he was putting the interests of his family first. Moreover, as noted
19 above, Mr. Bernard's concern that declining to release the executive session records to
20 Ms. Cowan's attorney may result in additional litigation costs indicates that Mr. Bernard
21 also should have been aware that his wife would have the same financial interests in the
22 matter. Both emails were initiated by Mr. Bernard and sent from his County email address.
23 Moreover, due to the non-public nature of issues concerning potential litigation, employee
24 personnel matters, and executive sessions in general, it appears unlikely that Mr. Bernard
25 would have been privy to at least some of the information that enabled him to write the
26 emails when he did.

27
28 None of the information submitted appears to indicate that Mr. Bernard has ever
29 announced a conflict of interest in the matter.

30 //

31 //

1 Information is sufficient to determine that Mr. Bernard violated ORS 244.040(1) and ORS
2 244.120(2) when he sent the emails on 11/20/17 and 11/29/17. Mr. Bernard appears to
3 have acted in his official capacity, using his County email, to take actions or make
4 recommendations that could financially impact his wife. It also appears that Mr. Bernard
5 used his position as a County Commissioner by using his County email and access to
6 non-public information in an attempt to affect the release of the County executive session
7 records to his wife.

8
9 **RECOMMENDATIONS:** The Commission should make preliminary finding that James
10 Bernard committed two (2) violations of ORS 244.040(1), three (3) violations of ORS
11 244.120(2) [Motion 10].

12
13 **ASSOCIATED DOCUMENTS:**

- 14 #PR1 Complaint filed electronically by Shari Anderson, received 8/15/18.
15 #PR2 Response letter from attorney, Steve Berman, on behalf of James Bernard,
16 received 9/5/18.
17 #INV1 County materials obtained pursuant to subpoena relating to meetings, study
18 sessions and executive session held on 6/13/17, 11/28/17, 1/17/18, 1/23/18,
19 3/27/18 and 7/17/18.
20 #INV2 Email from attorney, Steve Berman, on behalf of James Bernard, received 1/8/19.
21 #INV3 Email from Shari Anderson, received 2/4/19.

PREPARED BY

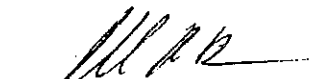


Hayley Weedn
Investigator

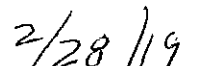


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APPROVED BY

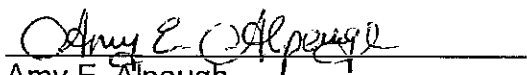


Ronald A. Bersin
Executive Director

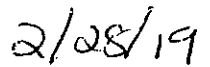


Date

REVIEWED BY



Amy E. Alpaugh
Assistant Attorney General



Date

WEEDN Hayley * OGEC

From: Steve Berman <SBerman@stollberne.com>
Sent: Tuesday, January 08, 2019 3:39 PM
To: WEEDN Hayley * OGEC
Cc: Graciela Seaman
Subject: Oregon Government Ethics Commission Case No. 18-179EHW/COLA adjustments
Attachments: RE: Clackamas County Cost of Living Adjustments for Non-Represented Employees; OGEC Advice No. 18-1301 (00757266xAC78D).PDF

Hayley,

One of the predominant allegations in Ms. Anderson's complaint is that Commissioner Bernard voted on cost of living adjustments affecting Danielle Cowan without disclosing "any conflict of interest concerning his relationship to Danielle Cowan." Complaint at 1. We submit that the allegations are unfounded, because there was no "conflict of interest."

The definition of "potential conflict of interest" excludes:

"Any action in the person's official capacity which would affect to the same degree a class consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation or other group including one of which or in which the person, or the person's relative or business with which the person or the person's relative is associated, is a member or is engaged."

ORS 244.020(13)(b) (emphasis added). That exclusion is incorporated by reference into the definition of "conflict of interest." See ORS 244.020(1) (so providing). See also Oregon Government Ethics Commission, *Oregon Government Ethics Law: A Guide for Public Officials (Ethics Guide)* at 26 (no conflict of interest "[i]f the financial impact of the official action would impact the public official, relative or business of the public official to the same degree as other members of an identifiable group or 'class.'"). The commission has the authority to determine what constitutes an identifiable group or class. See ORS 244.290(3)(a) (so providing); *Ethics Guide* at 26 (same). As an example of a potential group or class, the *Ethics Guide* identifies property owners who live on the same county road as a county commissioner. "The number of persons affected to the same degree as the public official will help to determine whether this exception applies." *Ethics Guide* at 26. As Executive Director Ronald A. Bersin explained in a letter of advice to the Executive Director of LOGOS Public Charter School: "An example of a 'class exception' would be if a public official were asked to approve a 2% cost-of-living raise for all teachers at Logos, an action that would affect all members of the class to the same proportional degree, and therefore be an exception to the conflict of interest." May 18, 2018 Letter from Ronald A. Bersin to Sheryl Zimmerer (Advice 18-1301) at 3. A copy of that letter of advice is attached.

In November 2018, I requested from Stephen Madkour, Clackamas County Counsel, information about COLA adjustments approved by the Clackamas County Board of Commissioners. Mr. Madkour's response is attached. As Mr. Madkour states, the Clackamas County Board of Commissioners approved cost-of-living adjustments for all non-represented employees, including Ms. Cowan, in July 2015, July 2016, July 2017 and July 2018. Those adjustments ranged from 2.1% to 2.8%. The 2015 adjustment affected 273 non-represented employees; the 2016 adjustment affected 325 non-represented employees; the 2017 adjustment affected 340 non-represented employees; and 2018 adjustment affected 344 non-represented employees. All non-

represented employees received identical COLA adjustments. Ms. Cowan was affected to the same proportional degree as all other non-represented employees.

We respectfully submit that the COLA adjustments affecting Ms. Cowan fall within the class exception ORS 244.202(13)(b). The class encompasses all non-represented Clackamas County employees, of which Ms. Cowan is a member. The class consists of between 273 and 344 individuals, depending on the year. (In that regard, the class is much smaller than the three dozen or so teachers at the Logos school addressed in Mr. Bersin's May 18, 2018 letter of advice). All class members were treated identically as to COLA adjustments. As to the COLA adjustments, we request that you recommend no violation occurred.

Please contact me with any questions, or if you would like any additional information.

Very truly yours,

Steve Berman
sberman@stollberne.com

Stoll Berne 209 SW Oak St., Suite 500
Portland, OR 97204

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From: Madkour, Stephen <SMadkour@co.clackamas.or.us>
Sent: Wednesday, November 07, 2018 12:49 PM
To: Steve Berman
Cc: Graciela Seaman
Subject: RE: Clackamas County Cost of Living Adjustments for Non-Represented Employees

Steve, answers below

From: Steve Berman [mailto:SBerman@stollberne.com]
Sent: Monday, November 05, 2018 1:23 PM
To: Madkour, Stephen <SMadkour@co.clackamas.or.us>
Cc: Graciela Seaman <gseaman@stollberne.com>
Subject: Clackamas County Cost of Living Adjustments for Non-Represented Employees

Stephen,

There are a few of factual issues I am trying to work through. I realize that Don Krupp may have this information easily accessible, but I do not want to contact Don directly since I believe all my inquires should be directed through county counsel. (If you would prefer that I contact Don directly, please let me know). In particular, I have some questions about Cost of Living Adjustments (COLAs) for non-represented employees. My questions are rather specific, and relate to COLAs for non-represented employees (NRPs).

First, I understand that in June 2018, the Board of County Commissioners approved an ordinance linking the COLA for NRPs to the CPI-W, West Urban-All items (Annual Average). Can the County provide an accurate number (or reliable estimate of the number) of NRPs were affected by that action?

- This is accurate, however the BCC approved a Resolution (#2018-68) rather than an ordinance linking COLAs for non-represented to the CPI-W, West Urban-All Items (Annual Average) on June 28, 2018.
- A total of 344 non-represented employees were affected by this action, including Danielle Cowan.

Second, has the Board of County Commissioners approved any changes to COLAs for NRPs since that June 2018 ordinance was approved? If so, what actions were taken (and when)? Can the County provide an accurate number (or reliable estimate of the number) of NRPs affected?

- No changes to COLA's (or the Resolution) have been approved for non-represented employees since June 2018.
- As a result of the Resolution, non-represented employees received a 2.8% COLA on July 1, 2018.
- A total of 344 non-represented employees were affected by this action, including Danielle Cowan.

Third, have there been any COLA increases or decreases approved for NRPs by the Board of County Commissioners since August 1, 2014? If so, what were the increases/decreases and when did they occur? Can the County provide an accurate number (or reliable estimate of the number) of NRPs affected by each increase/decrease?

- On July 1, 2015, the BCC approved a 2.1% COLA for 273 non-represented employees, including Danielle Cowan. The 31 non-represented employees within the Sheriff's Office received an approved COLA of 2.0% on July 1, 2015.
- On July 1, 2016, the BCC approved a 2.0% COLA for all non-represented employees. A total of 325 employees were affected by this action, including Danielle Cowan.

- On July 1, 2017, the BCC approved a 2.2% COLA for all non-represented employees. A total of 340 employees were affected by this action, including Danielle Cowan.
- As stated above, on July 1, 2018, the BCC approved a 2.8% COLA for all non-represented employees. A total of 344 employees were affected by this action, including Danielle Cowan.

Finally, for each of the COLA adjustments, increases or decreases discussed above, can you confirm that Danielle Cowan was one of the NRPs affected, and was affected similarly to the other NRPs?

Yes, Ms. Cowan was affected similarly to other non-represented employees by these COLA increases.

Please feel free to contact me with any questions.

Best,

Steve Berman
sberman@stollberne.com

Stoll Berne 209 SW Oak St., Suite 500
Portland, OR 97204

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Oregon

Kate Brown, Governor

Government Ethics Commission

3218 Pringle Rd SE, Ste 220

Salem, OR 97302-1544

Telephone: 503-378-5105

Fax: 503-373-1456

Email: ogec.mail@oregon.gov

Website: www.oregon.gov/ogec

February 20, 2019

Chad Jacobs, Attorney at Law
Beery, Elsner & Hammond, LLP
1750 SW Harbor Way, Suite 380
Portland, OR 97201

RE: Advice No. 19-0011

Dear Mr. Jacobs:

This letter of advice is provided in response to your request received on February 13, 2019 which presented a question regarding the application of Oregon Government Ethics law. This analysis and advice is being offered under the authority provided in ORS 244.284 as guidance on how the current provisions of Oregon Government Ethics law may apply to the specific circumstances you have presented.

FACTS AS PRESENTED:

Public bodies must conform their actions to applicable budget laws and proscribed processes, which often includes a budget committee comprised of some members of the governing body as well as other citizens. The budget committee makes recommendations to the governing body and the governing body makes the ultimate budget decisions.

Your law firm represents public bodies, such as cities or counties. Some of these clients have employees who are related to elected or appointed members of the client's governing body. For example, a newly elected city councilor whose sibling is a city employee.

Your concerns are about the participation of the governing body members in the budget process, given possible conflicts of interest since their relative's compensation is included in the budget. You explained that the governing body members do not supervise, hire, fire, demote, promote, or discipline their relative/employee.

QUESTION:

How would a member of a governing body of a public body whose relative was employed by the same public body remain in compliance with the conflict of interest provisions of Oregon Government Ethics law when participating, in their official capacity, in the public body's budget process?

ANSWER:

If the affected public official complied with the disclosure and disposition requirements of ORS 244.120, it appears that they may be able to participate in most of the budget process, as described below.



Conflicts of Interest: ORS 244.020(1) defines an actual conflict of interest and ORS 244.020(13) defines a potential conflict of interest. A public official is met with either an actual or potential conflict of interest when participating in an official capacity in any action, decision, or recommendation, if the effect would or could be to the private pecuniary benefit or detriment of the public official, the public official's relative, or any business with which either are associated. An actual conflict of interest occurs when a public official participates in an official action that would have a direct financial impact on that official, the official's relative or any business with which the official or a relative is associated. A potential conflict of interest occurs when a public official's action, decision or recommendation could have a financial impact on the official, the official's relative or any business with which the official or a relative is associated.

There is a "class exception" to the conflict of interest provisions which applies to any action a public official may take in their official capacity that would affect to the same degree a class consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation, or other group which includes the public official, their relative, or a business with which the public official or their relative are associated. [ORS 244.020(1) and (13)(b)] In a budgetary context, a "class exception" may apply if a public body is budgeting for a 2% across the board cost of living increase for all employees. Because the application of the "class exception" is very fact specific, it is not being analyzed in this general letter of advice.

Elected officials or those appointed to a board or commission, when met with a conflict of interest, must on each occasion, publicly announce the nature of their conflict, whether it is an actual or potential conflict of interest. Then, if the conflict is actual, they must also refrain from any discussion, debate or vote on the issue giving rise to the conflict. If the conflict is potential, they may participate in official actions following their public disclosure. [ORS 244.120(2)]

In this case, there are two different budget participation points – when acting as a member of the budget committee and when acting as a member of the governing body.

Budget Committee

Budget Committee members make budget recommendations to the governing body, which is the body that ultimately determines the budget. Therefore, when sitting as a budget committee member, the public official would be met with a potential conflict of interest when participating in official discussions, decisions, or recommendations that could financially impact their relative. The budget committee member must, when met with a potential conflict of interest, publicly disclose the nature of the conflict prior to continuing to take official actions on the matter.

Governing Body

Members of the governing body consider recommendations from the budget committee as to funding levels and make the ultimate budgetary decisions for the public body. If, as you suggested in your request, the governing body were to separate the budget by department or section, the member of the governing body whose relative was an employee of the public body would be met with an actual conflict of interest when discussing or voting on the budget sections that would financially impact their relative (i.e., the department their relative/employee worked in). The public official could then

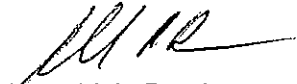
Chad Jacobs
February 19, 2019
Page 3

participate in official actions concerning the remainder of the budget that had no financial impact on their relative. Finally, when the entire budget, including the portion that impacts their relative, is discussed or voted on, the public official would again have an actual conflict and would need to announce and refrain from official action.

This general advice is limited to the application of the conflict of interest provisions to the general situation presented in your request. Because the possible applications of the use of office and nepotism provisions of ORS Chapter 244 are very fact specific, they are not analyzed here. Also not considered here is the possible existence of a "class exception" to the conflicts of interest analysis.

If you have any additional questions regarding the application of Oregon Government Ethics law, please feel free to contact me directly.

Sincerely,



Ronald A. Bersin
Executive Director

RAB/dg

*****DISCLAIMER*****

This staff advice is provided under the authority given in ORS 244.284(1). This opinion offers guidance on how Oregon Government Ethics law may apply to the specific facts described in your request. This opinion is based on my understanding and analysis of the specific circumstances you described and should not be applied to circumstances that differ from those discussed in this request.

GOULD Diane * OGEC

From: Chad Jacobs <Chad@gov-law.com>
Sent: Wednesday, February 13, 2019 4:17 PM
To: GOULD Diane * OGEC; HEDRICK Tammy R * OGEC
Subject: Ethics Question

Hi Diane and Tammy,

I hope this email finds you both well. I have an ethics question that I wanted to seek informal staff advice about, but I wasn't sure who would be the best person to answer my inquiry so I'm sending this email to both of you. Please feel free to forward this email to someone else if there is a more appropriate person with whom I should discuss this issue.

In short, we have a few different clients who have employees who are now related to members of their entities' governing boards (for example, a newly elected city councilor is a sibling of a city employee). The employees do not report to the elected officials, the elected officials do not supervise the employees, and the elected officials play no role in disciplinary, termination, promotion or hiring decisions related to the employees. So, there shouldn't be too many circumstances in which conflicts of interest, the limitations in ORS 244.040(1), or the nepotism laws will be implicated because of this family relationship.

The big issue we are struggling with is the budget process. We believe that a member of a governing board voting to approve a budget that includes funding for a relative's salary is an actual conflict of interest. What we have been asked, however, is if there is a way to segregate the portion of the budget causing the conflict so as to permit the member of the governing body to be able to participate in the rest of the discussion and vote on the budget.

For example, could the budget committee (and the governing body when it gets to them) discuss and vote on the budget for the department in which the employee works, and then have a second discussion and vote on the remainder of the budget? The conflicted member of the governing body would declare an actual conflict on the first discussion and vote (both at the budget committee and then at the governing body), but then would participate in the discussions/votes on the remainder of the budget (again both at the budget committee and then at the governing body). The logic is that once the budget for the department in which the relative employee works is set, there would no longer be a conflict for the affected board member for the remainder of the budget.

At the end of these preliminary discussions and votes, there would likely still need to be one final vote on the overall budget (combining everything into one vote) to conform the process to the procedural requirements of the local budget law. We presume, even though this vote would be somewhat ministerial in nature (in other words no substantive decision are being made since all such decisions were made in the earlier discussions/votes), that a final vote on the combined final budget would still constitute an actual conflict for the affected members of the governing bodies. As such, the affected governing body members would also declare an actual conflict on the final vote and abstain from participation.

Has the OGEC approved this type of segregated budgeting process before? We couldn't find any published opinion letters about using a procedure such as this. From our perspective, following this type of procedure would seem to comply with the state's ethics law, but we thought it best to run it by you all as well.

Thanks, in advance, for your assistance. Please do not hesitate to call or email if I can provide any further clarification about the issues outlined above.

All the best,

Chad

Chad A. Jacobs

JEFFREY ELSNER & HAMMOND, LLP

1115 SW Harbor Way, Suite 380

Portland, OR 97201

t (503) 226 7191 | f (503) 226 2348

www.gov-law.com

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Oregon

Kate Brown, Governor

Government Ethics Commission

3218 Pringle Rd SE, Ste 220

Salem, OR 97302-1544

Telephone: 503-378-5105

Fax: 503-373-1456

Email: ogec.mail@oregon.gov

Website: www.oregon.gov/ogec

January 23, 2019

Betsy Imholt, Chief of Staff
Senate President Peter Courtney
900 Court Street NE, S-201
Salem, Oregon 97301

Re: Advice Number 19-0051

Dear Ms. Imholt:

This letter of advice is provided in response to your request received on January 22, 2019, which presents a question regarding whether, within the confines of Oregon Government Ethics laws, one state senator could hire, for a personal project, a landscaping company owned by another state senator. The analysis and advice that follows is offered under the authority provided in ORS 244.284 as guidance on how the current provisions of Oregon Government Ethics law may apply to the specific circumstances presented.

According to the information provided, Senate President Peter Courtney would like to engage Emerald Lawns for a professional landscaping project at Senator Courtney's private residence. Emerald Lawns is owned by Senator Dallas Heard. Your request inquires whether, if Senator Courtney hired Emerald Lawns, this would pose an ethics problem for either of the state senators.

Needless to say, both Senator Courtney and Senator Heard are public officials, as defined in ORS 244.020(15). As defined in ORS 244.020(3), Emerald Lawns is a business with which Senator Heard is associated. The facts as presented indicate that the proposed contract would be a private transaction. There would be no use of public resources, and neither senator would be taking any official actions that might implicate Oregon conflict of interest statutes.

We examined whether the proposed contract with Emerald Lawns could violate the use of office provisions in Oregon Government Ethics laws. ORS 244.040(1) provides that a public official may not use or attempt to use his or her official position or office to obtain financial gains or avoid financial detriments for the official, his or her relatives or household members, or any business with which he or she is associated, if the financial gains or avoidance of financial detriment would not otherwise be available but for holding an official position or office.



Betsy Imholt
January 23, 2019
Page 2

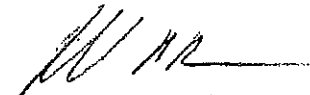
For the scenario you described, the analysis would require examining whether the Emerald Lawns contract provides a financial gain or avoidance of financial detriment to Senator Courtney that is available to him only because of his official position. If, for example, the contract amount was for less than posted rates or fair market value, then this might suggest that Senator Courtney was receiving a financial gain that would not otherwise be available but for his official position. On the other hand, if Senator Courtney was paying Emerald Lawns its posted rates or fair market value for the services provided, then this would suggest that he had not used his official position for a financial gain, and therefore there would be no violation of ORS 244.040(1).

One other provision could apply to this situation. ORS 244.040(3) provides that a public official may not solicit or receive, directly or indirectly, any pledge or promise of future employment based on an understanding that the public official's vote, official action or judgment would be influenced by the pledge or promise. Under the scenario you described, an analysis under ORS 244.040(3) would examine (i) whether Senator Courtney promised to hire Emerald Lawns in exchange for a pledge of support or vote by Senator Heard; or (ii) whether Senator Heard promised a discount in exchange for Senator Courtney's support or vote.

Absent any indication of a quid pro quo arrangement, and without evidence that Senator Courtney would be paying less than fair market value for Emerald Lawns' services, it does not appear that Senator Courtney's hiring of Emerald Lawns in his private capacity would be a violation of Oregon Government Ethics laws. Similarly, absent any indication that Senator Heard used or attempted to use his official position to obtain the contract for Emerald Lawns or that he pledged his vote, action or judgment in exchange for the promised contract, it does not appear that Senator Heard would violate Oregon Government Ethics laws if his company, Emerald Lawns, entered into this contract.

If you have any additional questions regarding the application of Oregon Government Ethics law, please feel free to contact me directly.

Sincerely,



Ronald A. Bersin
Executive Director

RAB/svm

****Disclaimer****

This staff advice is provided under the authority given in ORS 244.284(1). This opinion offers guidance on how Oregon Government Ethics law may apply to the specific facts described in your request. This opinion is based on my understanding and analysis of the specific circumstances you described and should not be applied to circumstances that differ from those discussed in this request.



Oregon

Kate Brown, Governor

Government Ethics Commission

3218 Pringle Rd SE, Ste 220

Salem, OR 97302-1544

Telephone: 503-378-5105

Fax: 503-373-1456

Email: ogec.mail@oregon.gov

Website: www.oregon.gov/ogec

February 19, 2019

Honorable Greg Smith
State Representative
PO Box 219
Heppner, OR 97836

Advice 19-0211

Dear Representative Smith:

This letter of advice is provided in response to your request received on February 13, 2019, which presented a question regarding the application of Oregon Government Ethics law to the relationship between a business with which you are associated and your role as a public official.

This analysis and advice is being offered under the authority provided in ORS 244.284 as guidance on how the current provisions of Oregon Government Ethics law may apply to the specific circumstances you have presented.

According to the information provided, you are the principle member of Gregory Smith & Company, LLC, a for-profit economic development firm. In 2017 your company was awarded a contract to serve as the Reload Facility Project Manager for Albany-Millersburg Economic Development Corp/Linn Economic Development Group (AMEDC/LEDG). The LLC was awarded the contract by submitting a response to a Request for Proposal in a public and competitive process.

AMEDC is a non-profit economic development organization with a 24-member board of directors and its mission is to improve the economic circumstances of Albany and Millersburg. The Linn Economic Development Group (LEDG) is an arm of the AMEDC and is governed by a seven member board of directors.

Your company, as the Project Manager for the AMEDC/LEDG industrial park and reload facility project is responsible for, among other duties, the following:

- Submitting a project proposal to the Oregon Department of Transportation for the development of the Mid-Willamette Valley Intermodal Facility, which was funded by the Oregon State Legislature through HB 2017 (2017).
- Responding to any questions or requirements presented by the Oregon Department of Transportation and the Oregon Transportation Commission.



- Assisting with the development and management of the overall project budget, expenditures, and performance indicators.
- Assisting AMEDC/LEDG in developing a formal site selection process for the industrial park and reload facility, including public input.
- Managing subcontractors.
- Securing budget resources.
- Guide AMEDC/LEDG through the procurement of land and development at the selected site.

On behalf of your private company in its role as Project Manager for the AMEDC/LEDG industrial park and reload facility, you will soon be making a presentation to the Oregon Transportation Commission.

As an elected member of the Oregon House of Representatives for District 57 (including Umatilla, Morrow, Gilliam, Sherman, and Wasco Counties), you are considered a public official subject to Oregon's Government Ethics law. As such, you are seeking advice regarding the appropriateness of this professional relationship.

As you know, public officials are not prohibited from outside employment or private business opportunities, as long as they comply with the limits and restrictions of Oregon Government Ethics law.

ORS 244.040(1) prohibits a public official from using or attempting to use an official position to obtain financial gain or to avoid financial detriment for the public official, their relative or household member, or any business with which the public official, their relative or household member, are associated, if the opportunity would not otherwise be available but for the public official's holding the official position. ORS 244.040(1) also prohibits a public official from using or attempting to use an official position to create or accept a private income-producing opportunity that would not otherwise be available but for holding the official position. ORS 244.040(3) prohibits a public official from directly or indirectly soliciting or accepting the promise of future employment based on the understanding that the offer is influenced by the public official's vote, official action or judgment.

The Oregon Government Ethics Commission (Commission) has established guidelines to assist public officials who may wish to engage in income-producing activities so as to avoid violating Oregon Government Ethics law:

GUIDELINES FOR OUTSIDE EMPLOYMENT OF PUBLIC OFFICIALS

1. Public officials are not to engage in private business interests or other employment activities on their governmental agency's time.

2. A governmental agency's supplies, facilities, equipment, employees, records, or any other public resources are not to be used to engage in private business interests.
3. The position as a public official is not to be used to take official action that could have a financial impact on a private business with which you, a relative or member of your household are associated.
4. Confidential information gained as a public official is not to be used to obtain a financial benefit for the public official, a relative or member of the public official's household or a business with which any are associated.
5. When participating in an official capacity and met with a potential or actual conflict of interest related to a business, associated with the public official, relative or household member, the public official must disclose the nature of the conflict of interests using the appropriate method prescribed in ORS 244.120.

The primary principle underscored in the guidelines is that a public official who also engages in private income-producing activities, must maintain a clear distinction between the use of official time and resources of the government body and personal time and resources of the official.

ORS 244.020(1) defines an actual conflict of interest and ORS 244.020(13) defines a potential conflict of interest. A public official is met with either an actual or potential conflict of interest when participating in an official capacity, in any action, decision, or recommendation, if the effect would or could be to the private pecuniary benefit or detriment of the public official, the public official's relative, or any business with which either are associated.

The difference between an actual and potential conflict of interest is determined by the certainty of the private financial impact. An actual conflict of interest occurs when a public official participates in an official action that would have a direct financial impact on the official, the official's relative, or any business with which the official or a relative is associated. A potential conflict of interest occurs when a public official's action, decision or recommendation could have a financial impact on the official, the official's relative, or any business with which the official or a relative is associated.

Members of the Legislative Assembly such as yourself, when faced with a conflict of interest, must "announce publicly, pursuant to rules of the house of which the public official is a member, the nature of the conflict before taking any action thereon in the capacity of a public official" [ORS 244.120(1)(a)]. Oregon Attorney General Opinion No. 8265, dated February 24, 1999, indicated that the authority to investigate and sanction members of the Legislative Assembly for alleged violations of ORS 244.120 was not delegated to any other body, including the

Representative Greg Smith
February 19, 2019
Page 4

Commission. Because of this opinion, the Commission does not take any official position concerning how compliance with ORS 244.120(1)(a) is achieved.

On review of the information provided, nothing appears to indicate that you were awarded this private business opportunity as a result of being a member of the Oregon Legislative Assembly, nor does it appear that you used your public position to advance your private business interests.

The mere circumstance that you are both a member of the Legislative Assembly and a private business owner whose company is the contracted Project Manager for AMEDC/LEDG does not create a statutory conflict of interest, but you must be mindful of any conflicts that may arise as a result of your company's association with the AMEDC/LEDG.

If you have any additional questions regarding the application of Oregon Government Ethics law please feel free to contact me directly.

Sincerely,



Ronald A. Bersin
Executive Director

RAB/dg

*****DISCLAIMER*****

This staff advice is provided under the authority given in ORS 244.284(1). This opinion offers guidance on how Oregon Government Ethics law may apply to the specific facts described in your request. This opinion is based on my understanding and analysis of the specific circumstances you described and should not be applied to circumstances that differ from those discussed in this request.



The Honorable Greg Smith
Oregon House of Representatives
District 57

February 13, 2019

Ron Bersin, Executive Director
Government Ethics Commission
State of Oregon
3218 Pringle Rd. SE, Ste. 220
Salem, OR 97302

Subject: Opinion Request

Director Bersin:

As you know, I serve as an elected member of the Oregon House of Representatives for the citizens of District 57, which includes Umatilla, Morrow, Gilliam, Sherman, and Wasco Counties. I am also a principal member of a for-profit economic development firm called Gregory Smith & Company, LLC.

On September 8, 2017, I sent a letter to the Oregon Ethics Commission requesting an opinion regarding the application of Oregon Government Ethics law in my participation in a private income producing opportunity. On September 16, 2017, I received the attached response.

On February 21, 2019, in my capacity as the Project Manager for the Albany Millersburg Economic Development Group/Linn Economic Development Group (hereafter referred to as AMEDC/LEDG), I will be presenting before the Oregon Transportation Commission. As such, I once again seek an opinion letter regarding this work.

Gregory Smith & Company, LLC has been retained by AMED/LEDG to complete various projects, included (but not limited to) the following duties:

1. Responsible for business, economic, and industrial development work. It has been determined that economic development needs require a multi-faceted, comprehensive approach that includes vision, planning, outreach, marketing, financial/incentive tools, partnership development, industrial land management, and more. The essential job functions are:
 - a) Business Support Services – provide small business services to entrepreneurs.
 - b) Prospective business recruitment services.
 - c) Consultation of business plan development.
 - d) Industrial land development and management services.
 - e) Federal and state regulatory assistance as it relates to economic development.
 - f) Monthly reporting.
2. Act as Project Manager for the AMEDC/LEDG industrial park and reload facility project. As such, be responsible for assisting with development and management of the overall project budget, expenditures, objectives and performance indicators.
3. Attend or respond to any requested questions or requirements presented by the Oregon Department of Transportation and/or the Oregon Transportation Commission. This includes submittal of a project proposal/plan for the Mid-Willamette Valley Intermodal Facility funded under HB 2017.

4. Assist AMEDC/LEDG in developing a formal site selection process for the AMEDC/LEDG industrial park and reload facility project, inclusive of public input.
5. Guide AMEDC/LEDG through the procuring of land and development of an industrial park and reload facility at the selected site.
6. Assist in the hosting of informational meetings/manage inquiries related to the AMEDC/LEDG industrial park and reload facility project. This shall include coordinating local and regional participation in the activities of the project. Participate, make presentations to, or provide support for committees, task forces, community meetings, or other public agency meetings as necessary. Receive requests, complaints, and comments from the public, and see that replies to inquiries are made and follow through on corrective action. Positive community relations are critical to the success of the project.
7. Responsible for assisting and securing budget resources available through the state and federal government or grants for the development of industrial parks and/or reload facilities.
8. Manage subcontractors to ensure that all project deliverables are provided on-time and within budget.
9. Monitor any environmental cleanup efforts and keep AMEDC/LEDG informed of progress. Alert AMEDC/LEDG of any issues that may impact development.
10. Prepare scopes of work and manage selection and contracting process for professional and consultant services to assist with community participation, planning efforts, business planning, and other project related matters.
11. Provide professional analysis and advice to the AMEDC/LEDG on issues related to the industrial park and reload facility.
12. Initiate or conduct special studies as assigned and prepare reports with recommendations for appropriate action. Develop short and long-range proposals, with alternatives, to enable the AMEDC/LEDG to determine policy for achieving objectives within available financial resources.
13. Set clear work goals and establish and communicate any changes in priorities.
14. Build credibility, trust, and communicate often with potential tenants, and anticipate their needs and implement changes accordingly.
15. Assist with the development of policies and procedures; direct and review the preparation of informational materials; review established procedures, systems, and standards, and make recommendations on problems of organization, staffing, and related management activities.
16. Other duties as assigned by the AMEDC/LEDG Board Chair (or designee of chairman).

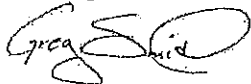
Gregory Smith & Company, LLC strives to conduct its business openly and transparently. As such, Gregory Smith & Company, LLC is soliciting the opinion of the Oregon Government Ethics Commission to determine the appropriateness of this professional relationship.

For your convenience, please use the following address for correspondence.

Representative Greg Smith
P.O. Box 219
Heppner, OR 97836

Thank you for your assistance in this request. If you have any questions or require additional information, please do not hesitate to contact me directly.

Best Regards,



Representative Greg Smith
House District 57



Oregon

Kate Brown, Governor

Government Ethics Commission

3218 Pringle Rd SE, Ste 220

Salem, OR 97302-1544

Telephone: 503-378-5105

Fax: 503-373-1456

Email: ogec.mail@oregon.gov

Website: www.oregon.gov/ogec

February 19, 2019

Honorable Greg Smith
State Representative
PO Box 219
Heppner, OR 97836

Advice 19-0221

Dear Representative Smith:

This letter of advice is provided in response to your request received on February 13, 2019, which presented a question regarding the application of Oregon Government Ethics law to the relationship between a business with which you are associated and your role as a public official.

This analysis and advice is being offered under the authority provided in ORS 244.284 as guidance on how the current provisions of Oregon Government Ethics law may apply to the specific circumstances you have presented.

According to the information provided, you are the principle member of Gregory Smith & Company, LLC, a for-profit economic development firm. In 2013 your company was solicited to provide Economic Development services for Malheur County. You will be the primary agent from your company in fulfilling the contractual services for Malheur County.

Your company, as the Economic Development Director for the County, is responsible for, among other duties, the following:

- Assisting Malheur County and Malheur County Development Corporation in developing a formal site selection process for the Treasure Valley Reload Center (TVRC).
- Acting as Project Manager for the TVRC.
- Making all oral and written presentations to the Oregon Department of Transportation/Commission on the TVRC, including the TVRS plan proposal.
- Developing narrative from vast amounts of data collected from the market feasibility team, engineering team, regional partners and state partners for TVRC.
- Compiling information and preparing the applications for BUILD Transportation Grants.



On behalf of your private company in its role as Malheur County's contracted agent for economic development, you will soon be making a presentation to the Oregon Transportation Commission on the Treasure Valley Reload Center (TVRC).

As an elected member of the Oregon House of Representatives for District 57 (including Umatilla, Morrow, Gilliam, Sherman, and Wasco Counties), you are considered a public official subject to Oregon's Government Ethics law. As such, you are seeking advice regarding the appropriateness of this professional relationship.

It appears from the information provided by you, that in your role as an agent of Malheur County, you are also considered a public official subject to the relevant ethics law contained in ORS Chapter 244 [ORS 244.020(14)]

As you know, public officials are not prohibited from outside employment or private business opportunities, as long as they comply with the limits and restrictions of Oregon Government Ethics law.

ORS 244.040(1) prohibits a public official from using or attempting to use an official position to obtain financial gain or to avoid financial detriment for the public official, their relative or household member, or any business with which the public official, their relative or household member, are associated, if the opportunity would not otherwise be available but for the public official's holding the official position. ORS 244.040(1) also prohibits a public official from using or attempting to use an official position to create or accept a private income-producing opportunity that would not otherwise be available but for holding the official position. ORS 244.040(3) prohibits a public official from directly or indirectly soliciting or accepting the promise of future employment based on the understanding that the offer is influenced by the public official's vote, official action or judgment.

The Oregon Government Ethics Commission (Commission) has established guidelines to assist public officials who may wish to engage in income-producing activities so as to avoid violating Oregon Government Ethics law:

GUIDELINES FOR OUTSIDE EMPLOYMENT OF PUBLIC OFFICIALS

1. Public officials are not to engage in private business interests or other employment activities on their governmental agency's time.
2. A governmental agency's supplies, facilities, equipment, employees, records, or any other public resources are not to be used to engage in private business interests.
3. The position as a public official is not to be used to take official action that could have a financial impact on a private business with which you, a relative or member of your household are associated.

4. Confidential information gained as a public official is not to be used to obtain a financial benefit for the public official, a relative or member of the public official's household or a business with which any are associated.
5. When participating in an official capacity and met with a potential or actual conflict of interest related to a business, associated with the public official, relative or household member, the public official must disclose the nature of the conflict of interests using the appropriate method prescribed in ORS 244.120.

The primary principle underscored in the guidelines is that a public official who also engages in private income-producing activities, must maintain a clear distinction between the use of official time and resources of the government body and personal time and resources of the official.

ORS 244.020(1) defines an actual conflict of interest and ORS 244.020(13) defines a potential conflict of interest. A public official is met with either an actual or potential conflict of interest when participating in an official capacity, in any action, decision, or recommendation, if the effect would or could be to the private pecuniary benefit or detriment of the public official, the public official's relative, or any business with which either are associated.

The difference between an actual and potential conflict of interest is determined by the certainty of the private financial impact. An actual conflict of interest occurs when a public official participates in an official action that would have a direct financial impact on the official, the official's relative, or any business with which the official or a relative is associated. A potential conflict of interest occurs when a public official's action, decision or recommendation could have a financial impact on the official, the official's relative, or any business with which the official or a relative is associated.

Members of the Legislative Assembly such as yourself, when faced with a conflict of interest, must "announce publicly, pursuant to rules of the house of which the public official is a member, the nature of the conflict before taking any action thereon in the capacity of a public official" [ORS 244.120(1)(a)]. Oregon Attorney General Opinion No. 8265, dated February 24, 1999, indicated that the authority to investigate and sanction members of the Legislative Assembly for alleged violations of ORS 244.120 was not delegated to any other body, including the Commission. Because of this opinion, the Commission does not take any official position concerning how compliance with ORS 244.120(1)(a) is achieved.

In your role as the Malheur County Economic Development agent, you are required to notify, in writing, the person that appointed you to your position, of the nature of any conflict of interest, and request that the appointing authority dispose of the conflict. The appointing authority must then designate within a reasonable time an

alternate to dispose of the matter, or shall direct the public official to dispose of the matter in a manner specified by the appointing authority. [ORS 244.120(1)(c)]

On review of the information provided, nothing appears to indicate that you were awarded this private business opportunity as a result of being a member of the Oregon Legislative Assembly, nor does it appear that you used your public position to advance your private business interests.

The mere circumstance that you are both a member of the Legislative Assembly and a private business owner whose company is the contracted agent to provide Malheur County's economic development services, does not create a statutory conflict of interest, but you must be mindful of any conflicts that may arise as a result of your company's association with the Malheur County.

If you have any additional questions regarding the application of Oregon Government Ethics law please feel free to contact me directly.

Sincerely,



Ronald A. Bersin
Executive Director

RAB/dg

****DISCLAIMER****

This staff advice is provided under the authority given in ORS 244.284(1). This opinion offers guidance on how Oregon Government Ethics law may apply to the specific facts described in your request. This opinion is based on my understanding and analysis of the specific circumstances you described and should not be applied to circumstances that differ from those discussed in this request.



The Honorable Greg Smith

Oregon House of Representatives
District 57

February 13, 2019

Ron Bersin, Executive Director
Government Ethics Commission
State of Oregon
3218 Pringle Rd. SE, Ste. 220
Salem, OR 97302

Subject: Opinion Request

Director Bersin:

As you know, I serve as an elected member of the Oregon House of Representatives for the citizens of District 57, which includes Umatilla, Morrow, Gilliam, Sherman, and Wasco Counties. I am also a principal member of a for-profit economic development firm called Gregory Smith & Company, LLC.

On October 16, 2013, I sent a letter to the Oregon Ethics Commission requesting an opinion regarding the application of Oregon Government Ethics law in my participation in a private income producing opportunity. On October 23, 2013, I received the attached response.

On February 21, 2019, in my company's contractual capacity, I will be presenting before the Oregon Transportation Commission. As such, I once again seek an opinion letter regarding this work.

Gregory Smith & Company, LLC has been retained by Malheur County to complete various projects, included (but not limited to) the following duties:

1. Develop on-going written goals, objectives and work-plan for positive economic development change in Malheur County.
2. Economic development collaboration and partnerships network with private and public partners.
3. Business retention and expansion.
4. Countywide marketing and promotion.
5. Assist Malheur County Planning Department and cities in planning for growth, rezone lands, industrial land expansion and innovative ways to implement solutions to land challenges for potential developments.
6. Explore economic development opportunities for vacant industrial land.
7. Database development.
8. Business leads.
9. Website enhancements for Malheur County.
10. Work with educational, business, social services and industry community partners in developing technical and industrial educational opportunities for youth.
11. Assist Malheur County with creation, IRS and Oregon Secretary of State filings/forms and accounts for Malheur County Development Corporation, a 501(c)(4) social welfare organization.
12. Act as Officer and board member to the Malheur County Development Corporation.
13. Assist Malheur County and Malheur County Development Corporation in developing a formal site selection process for the Treasure Valley Reload Center (TVRC).

900 Court Street NE, H-482, Salem, OR 97301 – Phone: 503-986-1457
P.O. Box 219, Heppner, OR 97836 – Phone: 541-676-5154
rep.gregsmith@oregonlegislature.gov

14. Act as Project Manager for the Treasure Valley Reload Center TVRC.
15. Make all oral and written presentations to the Oregon Department of Transportation/Commission on the TVRC.
16. Host informational meetings/manage inquires related to the TVRC.
17. Provide technical writing required for operations of the Malheur County Economic Development office.
18. Translate and develop in narrative form vast amounts of data collected from the market feasibility team, engineering team, regional partners and state partners for the TVRC.
19. Draft project plan proposal for TVRC to ODOT. Develop all written and oral presentations to ODOT.
20. Compile information, prepare and make application for BUILD Transportation Grants.

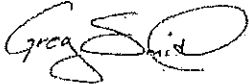
Gregory Smith & Company, LLC strives to conduct its business openly and transparently. As such, Gregory Smith & Company, LLC is soliciting the opinion of the Oregon Government Ethics Commission to determine the appropriateness of this professional relationship.

For your convenience, please use the following address for correspondence.

Representative Greg Smith
P.O. Box 219
Heppner, OR 97836

Thank you for your assistance in this request. If you have any questions or require additional information, please do not hesitate to contact me directly.

Best Regards,



Representative Greg Smith
House District 57

Trainers' Report March 7, 2019

This report covers the time period of January 28, 2018, through March 7, 2019.

Completion of training:

- City of Lake Oswego – ORS 244 (Lake Oswego)
- City of Gladstone – ORS 244 (City of Gladstone)
- Oregon STEM Investment Council – ORS 244 (Salem)
- Western Liberty Network– ORS 244 (Lake Oswego)
- Oregon Department of Forestry – ORS 244 (Astoria)
- Oregon Parks and Recreation Commission – ORS 244 & 171 (Independence)
- Oregon Health Authority New Employee Orientation – ORS 244 (Salem)
- City of Donald Hosted (Aurora, Gervais, Hubbard, Mt. Angel, St. Paul & Scots Mills – ORS 244 & 192 SEI (Donald)
- Oregon Watershed Enhancement Board – ORS 244 (Salem)
- Jefferson County Public Health Services – ORS 244 (Madras)
- Oregon Department of Transportation Consulting Project Managers– ORS 244 (Salem)

Upcoming Trainings:

<u>Date</u>	<u>Time</u>	<u>Public Body (Topic)</u>	<u>Address</u>
3/11/2019	1:00 – 3:00 PM	Portland Metro (ORS 244)	600 NE Grand Avenue Room 501 Portland, Oregon
3/13/2019	9:00 – 11:00 PM & 2:00 – 4:00 PM	Jackson County (ORS 244)	Jackson County Courthouse 10 S Oakdale Ave Room 10 Medford, OR 97501
3/13/2019	TBD	City of Gaston (ORS 244)	City of Gaston City Hall 116 Front Street Gaston, OR 97119
3/18/19	3:30 – 5:00 PM	City of Vernonia (ORS 244)	City of Vernonia City Council Chambers 1001 Bridge Street Vernonia, OR 97064

3/20/2019	11:15 – 12:00 PM	Oregon Health Authority New Employee Orientation (ORS 244)	Human Services Building 500 Summer St. NE Room 166 Salem, OR 97301
3/28/2019	12:00 – 2:00 PM	Port of Newport Commission (ORS 244)	Port of Newport South Beach Activities Room 2120 SE Marine Science Drive Newport, OR 97365
4/15/2019	1:00 – 3:00 PM	Oregon State Marine Board (ORS 244 & 192)	Oregon State Marine Board 435 Commercial St NE Ste 400 Salem, OR 97301
4/25/2019	11:15 – 12:00 PM	Oregon Health Authority New Employee Orientation (ORS 244)	Human Services Building 500 Summer St. NE Room 166 Salem, OR 97301
5/6/2019	3:00 – 5:00 PM	City of West Linn (ORS 244 & 192)	City of West Linn City Hall Council Chambers 22500 Salamo Road 2 nd Floor West Linn, OR 97068

Upcoming Conferences:

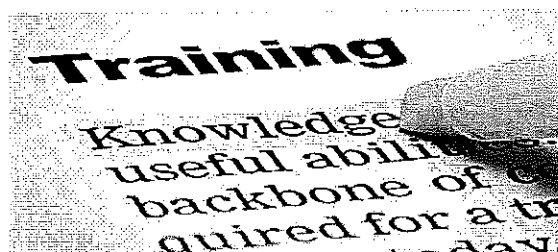
7/25/2019	TBD	Oregon Association of School Business Officials 2019 Annual Summer Conference (ORS 244)	Riverhouse Conference Center 3075 N Hwy 97 Room TBD Bend, OR 97703
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Training Staff:

Tammy Hedrick
Monica Walker

503-378-6802
503-378-2011

tammy.r.hedrick@oregon.gov
monica.walker@oregon.gov



April 2019

Oregon Government Ethics Commission AdobeConnect Webinar Training Calendar

Monday	Tuesday	Wednesday	Thursday	Friday
1	2 New Employees: you're a public official, now what! 10:00 – 11:00 AM	3	4	5
8	9 Gifts 10:00 – 11:00 AM	10	11	12
15	16	17 Lobby Law 2:00 – 3:00 AM	18	19 COMMISSION MEETING
22	23 Conflicts of Interest 2:00 – 3:00 PM	24	25	26
29 Executive Session 10:00 – 11:00 AM	30			

Email ogec.training@oregon.gov to register for a webinar.

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Executive Director's Report

March 7, 2019

- Budget
 - 2017-19 biennial budget
 - Currently projected with an \$189,379.03 surplus.
 - Expenditures through January, \$109,109.85 spent per month; \$126,431.99 average to spend per month.
 - General Fund Revenues have exceeded predictions, forecasted \$30,000 for biennium; moneys collected to date, \$54,605.75
 - 2019-21 biennial budget
 - Had public hearing on budget bill HB 5020 on 2/12/19.
 - \$2,913,971 biennial budget proposed by Governor.
 - No Policy Packages: a current service level request budget.
 - Adjusted for inflation for DAS assessments and AG costs.
 - Work session on bill scheduled for 3/7/2019 at 3:00pm.
- 2019 Legislative Bills
 - Had public hearings on HB 2097, HB 2277.
 - Work Session on HB 2097 on 2/27/2019.
 - Working with Legislative staff on scheduling hearing on HB 2096 in front of House Judiciary.
 - Met with House members of House Judiciary on HB 2096.
- SEI
 - Ready to open filing on March 15th, all SEI seated by Jurisdictional contacts.
 - Continue to work previous year's non-filers to submit SEIs due.
 - Delinquent SEI not filed, 2018-4, 2017-3, 2016-6.
- Other
 - Replaced chairs in office with Surplus chairs (\$10.00 per chair).
 - Lobbyist filings due for all four quarters of 2018, 3 Clients, 5 Lobbyists.

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OREGON GOVERNMENT ETHICS COMMISSION
Fund 0050 - AGENCY REVENUE TO GENERAL FUND
For the Month of JANUARY 2019



Budget Obj	Budget Obj Title	Monthly Activity	Biennium to Date Activity	Financial Plan	Unobligated Plan	Monthly Avg to Date	Monthly Avg to Spend
0505	FINES AND FORFEITS	940.00 940.00	54,605.75 54,605.75	30,000.00 30,000.00	-24,605.75 -24,605.75	2,873.99 2,873.99	-4,921.15 -4,921.15

SUMMARY TOTALS

0050	
AGENCY REVENUE TO GENERAL FUND	
Month Activity	Biennium Activity
940.00	54,605.75
940.00	54,605.75

REVENUES REVENUE
 Total



OREGON GOVERNMENT ETHICS COMMISSION

Fund 4150 - OF LIMIT - ADMIN

For the Month of JANUARY 2019

REVENUES

Budget Obj	Budget Obj Title	Monthly Activity	Biennium to Date Activity	Financial Plan	Unobligated Plan	Monthly Avg. to Date	Monthly Avg. to Spend
0415	ADMINISTRATIVE AND SERVICES CHARGES	0.00	2,519,661.13	2,524,954.00	5,292.87	132,613.74	1,058.57
0505	FINES AND FORFEITS	0.00	0.00	0.00	0.00	0.00	0.00
0975	OTHER REVENUE	200.75	253.00	2,000.00	1,747.00	13.32	349.40
		200.75	2,519,914.13	2,526,954.00	7,039.87	132,627.06	1,407.97

TRANSFER OUT

Budget Obj	Budget Obj Title	Monthly Activity	Biennium to Date Activity	Financial Plan	Unobligated Plan	Monthly Avg. to Date	Monthly Avg. to Spend
9999	DEFAULT	0.00	10,000.00	0.00	-10,000.00	526.32	-2,000.00
		0.00	10,000.00	0.00	-10,000.00	526.32	-2,000.00

PERSONAL SERVICES

Budget Obj	Budget Obj Title	Monthly Activity	Biennium to Date Activity	Financial Plan	Unobligated Plan	Monthly Avg. to Date	Monthly Avg. to Spend
3110	CLASS/UNCLASS SALARY & PER DIEM	47,304.15	838,100.40	1,081,008.00	242,907.60	44,110.55	48,581.52
3160	TEMPORARY APPOINTMENTS	0.00	0.00	466.00	466.00	0.00	93.20
3190	ALL OTHER DIFFERENTIAL	0.00	1,514.98	0.00	-1,514.98	79.74	-303.00
3210	ERB ASSESSMENT	17.12	306.40	456.00	149.60	16.13	29.92
3220	PUBLIC EMPLOYEES' RETIREMENT SYSTEM	9,317.45	171,000.37	202,950.00	31,949.63	9,000.02	6,369.93
3221	PENSION BOND CONTRIBUTION	2,647.83	50,217.38	61,151.00	10,933.62	2,643.02	2,186.72
3230	SOCIAL SECURITY TAX	3,647.91	64,529.91	82,741.00	18,211.09	3,396.31	3,642.22
3250	WORKERS' COMPENSATION ASSESSMENT	16.27	326.48	621.00	294.52	17.18	58.90
3260	MASS TRANSIT	283.82	5,037.53	6,490.00	1,452.47	265.13	290.49
3270	FLEXIBLE BENEFITS	11,246.99	172,953.47	300,024.00	127,070.53	9,102.81	25,414.11
		74,483.54	1,303,986.92	1,735,907.00	431,920.08	68,630.89	86,384.02

SERVICES and SUPPLIES

Budget Obj	Budget Obj Title	Monthly Activity	Biennium to Date Activity	Financial Plan	Unobligated Plan	Monthly Avg. to Date	Monthly Avg. to Spend
4100	INSTATE TRAVEL	687.48	12,049.58	19,004.00	6,954.42	634.19	1,390.88
4150	EMPLOYEE TRAINING	0.00	2,324.00	7,080.00	4,756.00	122.32	951.20
4175	OFFICE EXPENSES	276.41	9,045.56	21,557.00	12,511.44	476.08	2,502.29
4200	TELECOMM/TECH SVC AND SUPPLIES	-2,127.82	9,442.21	18,723.00	9,280.79	496.96	1,856.16
4225	STATE GOVERNMENT SERVICE CHARGES	383.00	51,084.41	52,557.00	1,472.59	2,688.65	294.52
4250	DATA PROCESSING	139.36	31,612.21	98,254.00	66,641.79	1,663.80	13,328.36
4275	PUBLICITY & PUBLICATIONS	25.00	480.02	1,023.00	542.98	25.26	108.60
4300	PROFESSIONAL SERVICES	0.00	2,048.42	9,469.00	7,420.58	107.81	1,484.12
4315	IT PROFESSIONAL SERVICES	7,350.00	249,218.00	310,552.00	61,334.00	13,116.74	12,266.80

Budget Obj	Budget Obj Title	Monthly Activity	Biennium to Date Activity	Financial Plan	Unobligated Plan	Monthly Avg to Date	Monthly Avg to Spend
4325	ATTORNEY GENERAL LEGAL FEES	22,979.36	160,593.91	161,995.00	1,401.09	8,452.31	280.22
4375	EMPLOYEE RECRUITMENT AND DEVELOPMENT	0.00	199.99	2,484.00	2,284.01	10.53	456.80
4400	DUES AND SUBSCRIPTIONS	0.00	0.00	450.00	450.00	0.00	90.00
4425	FACILITIES RENT & TAXES	3,652.77	64,117.94	94,494.00	30,376.06	3,374.63	6,075.21
4575	AGENCY PROGRAM RELATED SVCS & SUPP	179.75	2,412.19	0.00	-2,412.19	126.96	-482.44
4650	OTHER SERVICES AND SUPPLIES	0.00	162,316.54	164,091.00	1,774.46	8,542.98	354.89
4700	EXPENDABLE PROPERTY \$250-\$5000	621.50	621.50	7,607.00	6,985.50	32.71	1,397.10
4715	IT EXPENDABLE PROPERTY	0.00	11,533.69	0.00	-11,533.69	607.04	-2,306.74
		34,166.81	769,100.17	969,340.00	200,239.83	40,478.96	40,047.97

SUMMARY TOTALS

4715 OFFICE ADMIN

	Month Activity	Biennium Activity
REVENUES		
REVENUE	200.75	2,519,914.13
Total	200.75	2,519,914.13
TRANSFER OUT		
TRANSFER OUT	0.00	10,000.00
Total	0.00	10,000.00
EXPENDITURES		
PERSONAL SERVICES	74,483.54	1,303,986.92
SERVICES AND SUPPLIES	34,166.81	769,100.17
Total	108,650.35	2,073,087.09

OREGON GOVERNMENT ETHICS COMMISSION
 AY19 FLOW

Appn 70000 - GF - PCA 00501				
	Actuals To Date	Actuals + Projected	2017-2019 LAB	Variance
Beginning Cash Balance				
REVENUE				
0415 ADMINISTRATIVE AND SERVICES CHARGES	54,605.75	62,105.75	30,000.00	(32,105.75)
0505 FINES AND FORFEITS				0.00
0975 OTHER REVENUE				0.00
Total Revenue	54,605.75	62,105.75	30,000.00	(32,105.75)
TRANSFERS				
2010 TRANSFER OUT TO OTHER FUNDS				0.00
1107 TRANSFER IN FROM DEPT OF ADMIN SVCS				0.00
Total Transfers				0.00

Appn 30000 - Admin - PCA 41501				
	Actuals To Date	Actuals + Projected	2017-2019 LAB	Variance
Beginning Cash Balance				
798,167.30	798,167.30			
2,519,661.13	2,519,661.13	2,524,954.00		5,292.87
253.00	253.00	2,000.00		1,747.00
Total Revenue	2,519,914.13	2,519,914.13	2,526,954.00	7,039.87
(10,000.00)	(10,000.00)			10,000.00
Total Transfers	(10,000.00)	(10,000.00)		10,000.00
PERSONAL SERVICES				
3110 CLASS/UNCLASS SALARY & PER DIEM	838,100.40	1,092,555.83	1,119,202.00	26,646.17
3160 TEMPORARY APPOINTMENTS			466.00	466.00
3170 OVERTIME PAYMENTS				0.00
3190 ALL OTHER DIFFERENTIAL	1,514.98	1,514.98	456.00	(1,514.98)
3210 ERB ASSESSMENT	306.40	392.00		64.00
3220 PUBLIC EMPLOYEES' RETIREMENT SYSTEM	171,000.37	211,745.41	206,804.00	(4,941.41)
3221 PENSION BOND CONTRIBUTION	50,217.38	55,333.44	61,420.00	(3,913.44)
3230 SOCIAL SECURITY TAX	64,529.91	83,995.80	82,741.00	(1,254.80)
3250 WORKERS' COMPENSATION ASSESSMENT	326.48	455.18	621.00	165.82
3260 MASS TRANSIT	5,037.53	6,716.94	6,490.00	(226.94)
3270 FLEXIBLE BENEFITS	172,953.47	229,076.41	311,148.00	82,071.59
Total Personal Services	1,303,986.92	1,691,785.99	1,789,348.00	97,562.01
SERVICES AND SUPPLIES				
4100 INSTATE TRAVEL	12,049.58	15,061.98	19,004.00	3,942.03
4125 OUT-OF-STATE TRAVEL				0.00
4150 EMPLOYEE TRAINING	2,324.00	3,209.00	7,080.00	3,871.00
4175 OFFICE EXPENSES	9,045.56	11,306.95	21,557.00	10,250.05
4200 TELECOMM/TECH SVC AND SUPPLIES	9,442.21	13,335.07	18,723.00	5,387.93
4225 STATE GOVERNMENT SERVICE CHARGES	51,084.41	51,584.41	52,557.00	972.59
4250 DATA PROCESSING	31,612.21	32,112.21	98,254.00	66,141.79
4275 PUBLICITY & PUBLICATIONS	480.02	890.02	1,023.00	132.98
4300 PROFESSIONAL SERVICES	2,048.42	4,021.16	9,469.00	5,447.84
4315 IT PROFESSIONAL SERVICES	249,218.00	293,318.00	310,552.00	17,234.00
4325 ATTORNEY GENERAL LEGAL FEES	160,593.91	183,503.41	161,995.00	(21,508.41)
4375 EMPLOYEE RECRUITMENT & DEVELOPMENT	199.99	1,441.99	2,484.00	1,042.01
4400 DUES AND SUBSCRIPTIONS		225.00	450.00	225.00
4425 FACILITIES RENT & TAXES	64,117.94	82,491.37	94,494.00	12,002.63
4575 AGENCY PROGRAM RELATED SVCS & SUPP	2,412.19	2,412.19		(2,412.19)
4650 OTHER SERVICES AND SUPPLIES	162,316.54	167,276.54	164,091.00	(3,185.54)
4700 EXPENDABLE PROPERTY \$250-\$5000	621.50	3,800.00	7,607.00	3,807.00
4715 IT EXPENDABLE PROPERTY	11,533.69	11,533.69		(11,533.69)
Total Services and Supplies	769,100.17	877,522.99	969,340.00	91,817.02
5900 OTHER CAPITAL OUTLAY				
TOTAL EXPENDITURES	2,073,087.09	2,569,308.97	2,758,688.00	189,379.03
Ending Cash Balance*	1,234,994.34	738,772.46		

*Outstanding Revenue Invoices not taken into consideration

