OKLAHOMA ETHICS COMMISSION
JUNE 9, 2023, MINUTES FOR REGULAR MEETING & PUBLIC HEARING

1. **Call to Order.**

Upon notice, with the agenda being properly posted at the Commission office at least twenty-four (24) hours prior to the commencement of the meeting and notice being filed at least forty-eight (48) hours in advance with the Office of the Secretary of State, a regular meeting of the Ethics Commission of the State of Oklahoma ["Commission"] was called to order on Friday, June 9, 2023, at 10:00 a.m. Acting Chair Jarred Brejcha ["Brejcha"] opened the meeting, which was held in Room G-3 of the State Capitol Building, Oklahoma City, Oklahoma. Chair Howard Johnson was absent.

Determination of Quorum.

Roll was called to determine the existence of a quorum for the transaction of business. Commissioners answering present were Gregg Engle ["Engle"], Justin Meek ["Meek"], Eddie Fields ["Fields"], and Brejcha. A quorum of members was declared.

Staff & Visitors.

Commission staff members present at all, or part of the meeting were Ashley Kemp ["Kemp"], Stephanie McCord ["McCord"], and Diana Diaz.

Observing all or part of the meeting in person: Charles Outlaw, LegisOK; Misty Penuelas, Citizen; Joseph Shepard, Citizen; Denise Lawson, Attorney; Alicia Andrews, Democratic Party Chair; Geoffrey Long, Attorney; and Bob Nance, Attorney.

2. **Open Meeting Act Compliance.**

Chair Brejcha reviewed the *Affidavit of Posting* of the Agenda for the meeting prepared by the staff and affirmed the meeting and Agenda complied with the Oklahoma Open Meeting Act.

3. **Introductions and Announcements.**

None.

4. **Disqualification & Recusal Open Session.**

None.

5. **Minutes.**

Motion: Commissioner Fields moved to approve the minutes for the regular meeting and executive session held May 12, 2023.

Second: Commissioner Engle.

Roll call vote: Fields - yes, Engle- yes, Meek – yes, Brejcha – yes.

Motion Carried.

6. Public Hearing for 2024 ERC 01.

a. Explanation of 2024 ERC 01 by Director Kemp.

Director Kemp briefly explained the rulemaking review was initiated by the Commission at the written request submitted by the Oklahoma Republican Party in support with the Democrat Party of Oklahoma and the Libertarian Party of Oklahoma, the three state parties recognized in the State of Oklahoma. The parties specifically requested the Commission to review the Ethics Rules including, but not limited to, the definition of "influencing elections" set out in the Oklahoma Constitution; whether the Ethics Rules are able to prevent funds from corporations if the funds are not used directly towards candidate activity; whether the contributions from candidate committees should continue to be permitted to stay within the surplus funds provisions of the rules, or if the rules should be loosened to allow different timeframes; whether the contribution limits should be increased or removed all together; and the separation of the reporting requirements within the parties structure.

b. Public Comment.

Attachment 1: "Public Comment Summary on 2024 ERC 01." A recording of the hearing itself is available from the Commission.

Attachment 2: Written Comment submitted via email.

c. Comments and questions by Commissioners and Staff.

Discussion by Fields, Kemp, Engle, McCord, and Brejcha.

7. Determination to enter Executive Session.

Consideration, discussion, and possible action on entering closed/executive session as authorized and required by Title 25 O.S. Supp. 2017, § 307 (B)(4) and (7) of the Oklahoma Open Meeting Act and Constitutional Ethics Rules 6.5, 6.6, and 6.9 for the purpose of discussing matters identified in agenda item 8.

Motion: Commissioner Fields moved that pursuant to counsel's advice as set forth in subsection (a), the Commission go into executive session in the Ethics Commission Office, Room G-27, of the State Capitol to discuss the matters listed for Agenda Item 8.

Second: Commissioner Meek.

Roll Call vote: Fields- yes, Meek- yes, Engle- yes, Brejcha- yes.

Motion carried to go into Executive/Closed session at 10:52 a.m.

8. **Executive Session.**

9. **Action to return to Open Session.**

Motion: Commissioner Fields moved to reconvene in Open Session at 12:28 p.m.

Second: Commissioner Engle

Roll call vote: Fields – yes, Engle– yes, Meek - yes, Brejcha – yes.

Motion carried.

10. **Disqualification & Recusal for Executive Session.**

None.

11. **Consideration, discussion, and possible action on the following items considered in executive session.**

Motion: Commissioner Fields moved to dismiss Case No. 2022-35, alleging violations of campaign finance Ethics Rule 2.

Second: Commissioner Meek

Roll call vote: Fields – yes, Meek - yes, Engle – yes, Brejcha – yes.

Motion carried.

Motion: Commissioner Fields moved to authorize a formal investigation into C-23-18, based on a determination that there is reasonable cause to believe that the person or persons named in the complaint have violated Campaign Finance Ethics Rule 2.

Second: Commissioner Engle

Roll call vote: Fields- yes, Engle- yes, Meek-yes, Brejcha- yes.

Motion carried.

Motion: Commissioner Fields moved to authorize a formal investigation into C-23-19, based on a determination that there is reasonable cause to believe that the person or persons named in the complaint have violated Campaign Finance Ethics Rule 2.

Second: Commissioner Meek

Roll call vote: Fields- yes, Meek-yes, Engle, yes, Brejcha- yes.

Motion carried.

Motion: Commissioner Fields moved to authorize a formal investigation into C-23-20 based on a determination that there is reasonable cause to believe that the person or persons named in the complaint have violated Campaign Finance Ethics Rule 2.

Second: Commissioner Engle

Roll call vote: Fields- yes, Engle- yes, Meek-yes, Brejcha- yes.

Motion carried.

Motion: Commissioner Fields moved to authorize a formal investigation into C-23-21 based on a determination that there is reasonable cause to believe that the person or persons named in the complaint have violated Campaign Finance Ethics Rule 2.

Second: Commissioner Meek

Roll call vote: Fields- yes, Meek-yes, Engle- yes, Brejcha- yes.

Motion carried.

Motion: Commissioner Fields moved to authorize a formal investigation into C-23-22 based on a determination that there is reasonable cause to believe that the person or persons named in the complaint have violated Campaign Finance Ethics Rule 2 and Conflicts of Interest Ethics Rule 4.

Second: Commissioner Engle

Roll call vote: Fields- yes, Engle-yes, Meek- yes, Brejcha- yes.

Motion carried.

12. **Consideration, discussion, and possible action on registration and administration fees for The Guardian System for FY 2024 for Non-Candidate Committees, Candidate Committees and Lobbyists, Legislative Liaisons, and Lobbyist Principals**.

Director Kemp explained the Commission's appropriation fund for FY 2024 was neither increased nor decreased, despite at the Commission's request for the need of an increase. Fee revenue abilities, that are critical to the operations of the Commission come from the registration and administration fees that an entity pays when registering to use The Guardian System. FY 2018, fees were decreased from $250 to $100, in response to the legislature placing a cap on the Commission's fee revenue fund. An increase in fees would improve the operations of the Commission.

Motion: Commissioner Fields moved that the Commission adopt registration and administration fees for candidate committees on a per campaign basis at $125 effective July 1, 2023.

Second: Commissioner Engle

Roll call vote: Fields – yes, Engle – yes, Meek – yes, Brejcha – yes.

Motion carried.

Motion: Commissioner Fields moved that the Commission adopt a $125 annual registration and administration fee, effective July 1, 2023, for political action committees, political party committees, lobbyists and legislative liaisons, and lobbyist principals.

Second: Commissioner Meek

Roll call vote: Fields – yes, Meek – yes, Engle – yes, Brejcha – yes.

Motion carried.

13. **Executive Director's Report.**

Director Kemp discussed the Commission's financials including revenue and expenditures for May 2023; provided an update regarding FY 24 Budget Request, and the compliance efforts report.

14. **New Business.**

None.

15. **Adjournment**

Motion: Commissioner Engle moved to adjourn the meeting.

Second: Commissioner Fields

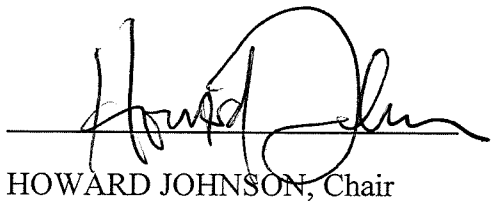
Roll call vote: Engle – yes, Fields – yes, Meek – yes, Brejcha – yes.

Motion carried.

Meeting ended at 1:04 p.m.

ASHLEY KEMP, Executive Director

Approved on behalf of the Commission:



HOWARD JOHNSON, Chair

Attachment 1
Public Comment Summary on 2024 ERC 01
June 9, 2023

1. Misty Penuelas, a Citizen: Says she also submitted comments in writing via e-mail and has additional comment regarding Ethics Rule 2.19. Penuelas says the GOP would not allow people to participate in the state convention unless they were to pay with a check or a credit card, so basically that is a prohibition on cash. They said it was the Ethics Committee rule, so I found it was Ethics Rule 2.19. The GOP raised the price, but at the same time, you have a rule we can address. So, Rule 2.19, says there no cash contribution over $50 to the Republican Party and I went and looked at the Oklahoma Constitution and I found where it says to violation Article 2, section 3, Article 2, section 30 and Article 2, section 32. So, the first, Article 2, section 3 is the right to assemble and petition. We could not get into the thing, so we could not assemble and petition. It is kind of an unreasonable search and seizure because it is a way of tracking, you know tracking your movements through the bank. But the big thing is 32, the prohibition of monopoly. And if you say that individuals can't exchange cash, then that gives financial institutions, whether a bank or what have you, a monopoly and all the money has to go through their hands. You can't exchange money without the bank. So, that's monopoly and so I'm arguing, that it violates that. So ill just close really quick, so the assumption of having an Ethics Committee is that you guys are protecting the Ethics to protect property rights. If Ethics means anything it means protecting property rights. And what's more fundamental to property rights, than being able to control and own your own money and spend it the way you chose. That's a fundamental property right. So I would just like to urge the Commission, let's see, that in this case, but in cases coming forward, because this is going to be an issue that comes up more and more as we go forward in the future about whether or not you can use physical cash and so its always hope that the Commission in this case either get rid of the rule or what have you. But going forward, to keep that in mind when you are deciding on rules, to protect our right to have physical money. Thank you.

2. Alicia Andrews, Chair of the Democratic Party of Oklahoma: Says I am here to reinforce my commitment to this process. I am interested in examining the surplus funds provision and the contribution limits issues because you know as I travel the country and I see what other States are doing and there are many many States that do not have limits and do not have limits on who can contribute. I just want to encourage us to keep investigating that because that will assist us in our endeavors in what we are doing. But I'd like to kind of echo the prior speaker, the issue of limit on how much cash a political party can accept. I'm all for reporting, I think we still need to report how much cash, but a lot of folks get to an event and decide that they want to donate and all they have is cash and they rather do the cash then rather have it show up on their credit card and so the limit of $50 unattributed cash is prohibited. We can't go pass the hat anymore or anything like that and be legal. It wasn't what I came to talk about and clearly, we are not in the same team, but I did want to echo the importance of her issue. Thank you.

3. Joseph Shepard, a Citizen: Says I was at the Republican Convention in Tulsa, and they would not let me in because I refused to pay with a check or credit card. I paid cash all the other years I've lived in Oklahoma, it was never a problem. All of sudden now it is a problem. Right in the middle of the time, that the Government is trying to force everyone to use digital currency. This is clearly a plan by the Republican Party to assist the transition from cash to a digital cashless society.

And I refuse to participate in that. I will fight to the death to avoid that. Its an outrage to me, that any state office would even consider assisting in that transition. I'm appalled to of all organizations, to the Ethics Commission is involved in that limiting the cash payment to $50. This is absurd. The difference between $50 and $70 can constitute an ethical problem, its totally mind boggling. Anybody who can consider that to be an ethical problem, there's something wrong with them.

Attachment 2
Written Comment
2024 ERC 01
June 9, 2023

From: Offensive History
To: ethics
Subject: [EXTERNAL] Request to make comments at Public Hearing Friday 6/9
Date: Tuesday, June 6, 2023 11:07:49 AM

Dear Ethics Commission,

I would like to request an opportunity to speak at the upcoming Ethics Commission Meeting this Friday, June 9.

There are two issues I want to address:

#1
Rule 2.19 prohibiting cash payments over 50$ to the GOP. This rule violates three sections of the Oklahoma State Constitution, to wit,

Article 2 Section 3, the right of assembly and petition, since anyone who wants to pay cash is prohibited from participating in GOP functions.

Article 2 Section 30, the prohibition against unreasonable searches and seizures, since paying with digital money makes my private business subject to the scrutiny of the government.

And, most Importantly,

Article 2 Section 32 which prohibits monopolies, entailments, and primogeniture because forcing people to pay with digital money creates a monopoly for the banks, who exclusively profit off of, or can otherwise interfere with, bilateral economic transactions. No one else has this privilege of making money off of political participation, so it is a monopoly privilege that seriously interferes with one's free participation is our government.

I would like to see this rule repealed entirely.

#2
The second issue I want to address is the nomination process for state level GOP Officers. However, having searched both Ethics Commission Rules and GOP Rules, there appears to be no rule governing this issue, to wit,

Nathan Dahm was supposedly elected as State GOP Chairman at the last Convention, however, he did not even announce his candidacy until FOUR days prior to the election. Most people did not even knew he was running until the morning of the State Convention. I even attended a Cleveland County GOP "meet the candidates" session four days before the election, and although he was supposedly there, his candidacy was never mentioned, no did he even speak. How is it possible that with literally zero campaign effort, he walked off with the election?

If you know what "rule" says four days is the magic number, I would greatly appreciate it if you could inform me as to where I can find that rule and read it for myself, before the meeting on Friday so that I can better prepare my public comments.

If, on the other hand, as I suspect, there is no rule, and that those who said there was a rule

were being less than honest, then, without further guidance, I would at least call for a rule to be made specifying a deadline to file papers well before the elections, as with all other candidates for office, and at most, demand an investigation into how Nathan Dahm, of all people, ended up with the top slot.

The issue is very serious because the state level officers are presumed to have real grassroots support, and from that they get their "mandate" to propose and push policies that supposedly the people want. But this man, *prima facie*, could not have had any grassroots support because nobody even knew he was running. This chaos at the base completely undermines the democratic process and does so at the most intimate level of participation.

If you know of a better process by which I can pursue the issue of how state party officers are elected, please point me in that direction. However, as of now, I would like to speak about both of these issues at the meeting on Friday. If you would like to have written comments for purposed of administration, you can use this email.

Thank you for your time and attention to these weighty matters.

Sincerely,
Misty Peñuelas
Ph.D. Candidate
Department of History
University of Oklahoma