

OKLAHOMA ETHICS COMMISSION
SEPTEMBER 7, 2023, MINUTES FOR SPECIAL 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 special meeting of the Ethics Commission of the State of Oklahoma ["Commission"] was called to order on Friday, September 7, 2023, at 10:00 a.m. Chair Howard Johnson ["Johnson"] opened the meeting, which was held in Room G-3 of the State Capitol Building, Oklahoma City, Oklahoma.

Determination of Quorum.

Roll was called to determine the existence of a quorum for the transaction of business. Commissioners answering present were Jarred Brejcha ["Brejcha"], Gregg Engle ["Engle"], Justin Meek ["Meek"], Eddie Fields ["Fields"], and Johnson. 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"], Diana Diaz and Katie Stagner.

Observing all or part of the meeting in person: Charles Outlaw, LegisOK; Dylan Brown, KFOR; Denise Lawson, Attorney; Pam Pollard, GOP Officer; Carmen Forman, Oklahoma Voice; Geoffrey Long, Attorney; Nolan Clay, Media; Bob Nance, Attorney; and Drew Edmondson, Attorney.

2. Open Meeting Act Compliance.

Chair Johnson 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.

Director Kemp introduced the Commission's newest staff member, Katie Stagner, hired as an executive assistant and currently training to run an Ethics Commission meeting and act as a clerk for the Commission.

4. Disqualification & Recusal Open Session.

None.

5. Minutes.

Motion: Commissioner Fields moved to approve the minutes for the special meeting and executive session held July 21, 2023.

Second: Commissioner Meek.

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

Motion Carried.

6. Public Hearing for 2024 ERC 01.

a. Explanation of 2024 ERC 01 by Director Kemp.

Director Kemp briefly prompted 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 engagement in the rulemaking process includes information gathering, research, identifying any potential areas of change, and if needed, drafting language to replace those changes. That process of the Commission includes providing multiple opportunities for public participation including public comment which began in June of this year, will be given at this meeting, and possible in future meetings.

b. Public Comment.

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

c. Comments and Questions by Commissioners and Staff.

Discussion by Brejcha, Kemp, and Fields.

7. Rulemaking 2024 ERC 02.

a. Introduction and Explanation by Commissioner Brejcha and Director Kemp

Commissioner Brejcha explained his request is more of a placeholder to discuss whether or not the Commission will enter into a rulemaking process; or whether the Commission should refine or articulate the Commission’s administrative compliance programs including assessment of fees for late filings and other compliance issues. Director Kemp prepared a presentation of reviewing the Commission’s administrative compliance programs for late filers, non-filers, and Ethic Rules violations. The presentation itself is available from the Commission.

b. Discussion by Commissioners.

None.

c. Discussion by Commission Staff.

None.

8. 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 Engle.

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

Motion carried to go into Executive/Closed session at 11:15 a.m.

9. Executive Session.

10. Action to return to Open Session.

Motion: Commissioner Fields moved to reconvene in Open Session at 1:50 p.m.

Second: Commissioner Meek.

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

Motion carried.

11. Disqualification & Recusal for Executive Session.

General Counsel McCord first announced Commissioner Meek himself recused from Case No. 2019-06, alleging violations of Campaign Finance Ethics Rules 2; State of Oklahoma ex rel. Oklahoma Ethics Commission V Coleman, Oklahoma County District Court, Case No. CJ-2021-4865 and was not present during discussion. Secondly, Commissioner Brejcha recused himself previously from Case No. 2020-01, alleging violations of Campaign Finance Ethics Rule 2 and Conflicts of Interest Ethics Rule 4, due to a conflict with a separate matter that has since resolved. Accordingly, Commissioner Brejcha no longer has a conflict in Case No. 2020-01.

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

None.

13. Advisory Opinion Request.

Chair Johnson announced the Commission received a request from State Senator Jessica Garvin and whether dependent care expenses incurred in connection with running for office or holding public office in Oklahoma are considered personal use under the law or are considered

a permissible campaign expenditure.

Director Kemp explained that under the Constitution, the Commission is given final interpretation authority over its own rules and a process is set out that upon its own discretion, determine whether or not it wants to issue a binding Advisory Opinion interpreting its own rules when requested. The first step in the Advisory Opinion process is to determine for each request whether to authorize the Director to initiate the advisory opinion process and provide notice of a hearing.

Motion: Commissioner Fields moved to direct the Executive Director to schedule and provide notice of a hearing on Advisory Opinion Request 23-01, to prepare draft advisory opinions for consideration by the Commission, and to accept comments on the request and draft opinions consistent with Ethics Rule 1.7.

Second: Commissioner Engle.

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

Motion carried.

14. Executive Director's Report.

Director Kemp discussed the Commission's financials including revenue and expenditures for July and August 2023; the compliance efforts report and provided a draft of the FY25 Budget Request Preparation using FY24 Budget Request to be furthered discussed in October's meeting. Director Kemp gave an update on the future of The Guardian System, in which the Commission was formally notified in the month of July by its vendor of their intention to terminate it, July 1, 2024. The discussion of terms and timelines remain in the negotiation stage.

15. Executive Director Search Updates.

a. Director Kemp announced the Search Committee has been formed by current and previous Commissioners: Cathy Stocker, Charlie Laster, Eddie Fields, and Justin Meek. The Committee has set a timeline on the posting of the Executive Director position and its applicant submission deadline of September 15, 2023. Subsequently, the Committee will then meet to review any and all applications and will conduct the first round of interviews. The position listing has been posted on the Ethics Commission website, OMES State-wide website, published in the Bar Journal, Council of Governmental Ethics Laws, and disseminated internationally.

b. Chair Johnson announced to have received a request if there is interest in holding a Special meeting the week following the close of the job posting to discuss applications and next steps for the Executive Director Job Search.

Motion: Commissioner Fields moved to authorize the Director to schedule a Special meeting for September 21, 2023, at 1:00 p.m. concerning the search for the Executive Director.

Second: Commissioner Meek.

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

Motion carried.

16. Adjournment

Motion: Commissioner Engle moved to adjourn the meeting.

Second: Commissioner Fields.

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


Motion carried.

Meeting ended at 2:19 p.m.



ASHLEY KEMP, Executive Director

Approved on behalf of the Commission:



HOWARD JOHNSON, Chair

Attachment I
Public Comment Summary on 2024 ERC 01

- 1. Pam Pollard, GOP Chair Officer:** says, “Thank you for holding these opportunities for the public to come in and I do consider myself one of the public even though I am elected party officer. I’ve been a party officer for 18 years, served in every role, I served as the East State Party Chairman for the Republican Party from 2015 to 2019, so I’ve been here under three sets and potentially four sets of Ethics Rules. So, I do have a vested interest, but I will say, I’m here personally as a citizen also to say my vested interest is what is fair and what is best, and I can bring my professional experience into it. I also served as the national committee woman for Oklahoma, so I write a lot of the manuals. I do a lot of the training with other States, so I’m very very familiar of the processes in other States and the process here in Oklahoma and how is it, what are current laws and rules, how is it helping the general public have ballot access, how’s it helping out candidates to get access to the voters, and how is it stifling them? Of course, everyone is very familiar that we’ve had some major changes from the Federal level regarding Citizens United and now with all the independent expenditures, I will say I am also an employee of the National Federation of Republican Women, I’m their CFO, their Director of Finance so I understand how the 527s come into the political party play as well. I do consider this a privilege to speak to you this morning and I’ll be glad to take any questions, if you guys have any for me as well. But I would just like to say a couple things and A.J was Chair, when he wrote this, and I was National Committee Woman during the time of this letter. Our state committee did authorize the writing of this letter. We encouraged the writing of this letter.

I’ve worked with Ashley, even before she was Director, since she was the Attorney and we went through and made a lot of the changes that we currently live under and I understand the reasons behind the scenes of why some many of these changes were made, but I’m a person who has to live with the current system, not only with our Candidates, but one message that you did share with people and that is, I think, Item #3 about our local party committees. You heard me say I’m with the National Federation of Republican Women, I was also President of Republican Women. So, I understand how every little club, we have 35 clubs, and I’m only speaking of the Republican side, I’m not even speaking about all the other political clubs that are out there, but on our side, at my time when I was President, we had 35 clubs who changed officers every year. And had volunteers trying to be accountants and trying to be CPA’s and trying to be finance experts, Ethics law experts, so that’s when I became very actively involved with the Ethics Commission, because these ladies were getting into trouble. Because just they didn’t know. We would teach classes, we had Lee Slater come out to one of our statewide meetings to try to teach the ladies what needs to be going on, but again, when you have a knowledge base that leaves every year, potentially leaves every year, it just becomes very very burdensome to these local committees. So, as you know, what we have done now is that if anyone in our party, the Republican Party, if any of our local clubs want to give money to Candidates then they do a transfer to the State Party. The State Party actually write the check, so the donation is from the State Party. We let the Candidates know that this was a transfer to the State Party, but in that, under the current rules, then that stops the local clubs, even our precinct committees, on the GOP side, it helps the Republican Women’s clubs, the GOP, everything

that gives and we're strictly talking state, we are not even into the Federal side of this. We're talking the state side. That part of it has really helped to be able to transfer to the State and the State is responsible for reporting because it came out of their bank account. But that's just some of the complexities of it.

Another complexity that we have in Oklahoma, and me personally I think is one of the greatest change that was made that I think did the most harm to the relationships of our Candidates, to our political parties, was the rule that does not allow Candidates to write a check, because under the current Ethics laws, the only dollar that we received is considered a contribution. There is no other definition of a dollar coming into our bank account. It's considered a contribution. Currently contributions are not allowed from a Candidate to a party committee, any party committee, including the Women's clubs, unless they are in the Surplus funds after the election is over. So, one of the things in Federal law we are allowed to do and as you know in the political party committees if you're very familiar with Federal law, we have to keep our dollars separated between Federal purposes and State purposes but under Federal law, the McCain-Feingold (Act), it allows for us to do a little bit of joint State and Federal type of activities. One of the biggest things that they do, in almost every state, I believe there is only two states who no longer can do this, so Oklahoma is one of them. Under McCain-Feingold, when they changed those laws, one of the things they allowed Candidates to do was to use the political parties, and again there is only two states who don't do this and we're one of the two, allow the political parties to use the mail. A special mail rate of the political parties. As on television, Candidates get like a 50% discount. On mail, political parties get a lower rate to send out mailers. So that is one of the relationships that Candidates have with their parties, is that when they want to do a mailer, they transfer the funds to the State Party and the State Party is able to send it out at use of the indicia of the State Parties and is able to get more information out to the voters on behalf of the Candidate and also, on behalf of the Party. Because our Candidates do run under a Party name in Oklahoma, and I know they don't in many states. But when that was cut off, when I was Chair in 2018 and again, this rule, this rule became in effect in 2016. The in 2018 we had state-wide races and after we had our nominee, after the run-off in August, we began to talk with our state-wide Candidates, including current Governor Stitt, current Lieutenant Governor Matt Pinnell, all of these Candidates about coordinating "Get Out the Vote." Their attorney's looked at it and wrote us a letter and said because of the ambiguity in the current laws we feel that that would be considered coordination with the parties, which would be a financial contribution, so they ceased all communications. Our Candidates from the political parties who run under our name, on our ballot, and by our ballot I mean Republican, on our ballot, were no longer able to even talk to us. They would not take a phone call from us at any time during that for fear of being part of the coordination, which roughly defined, could've been an in-kind contribution amongst the Candidates. So that was a huge thing, and that relationship is still there, that fear factor, if I can say that, is still there for the Candidates. It doesn't matter what your party is, you should never separate your Candidates from your Party, if they're running under a Party name, which we do here in Oklahoma. So, to me that was, that was the greatest ambiguous part under that last part of the current rules. I really advise this Ethics Commission to look into that.

The second part, I believe is #2, and I think that was #2. The other part of it that we do, in a lot of States and that is, and I think that is #1 I'm going to talk about, first bullet point, is many States allow the political party committees to raise cooperate funds, or other funds. However, that money must be sectioned off, and again remember, we already have to keep our Federal dollars separate. We have to keep logs of Federal dollars; we have to keep logs of payroll for Federal and to State. We have to have two separate bank accounts, so we're already very familiar with having to do this and I just have to think the other, you know, our Democratic and Libertarian Parties, are as well. I can only speak for my Party, but we are already doing this, so to allow us to be able to raise corporate dollars solely for the use of our building fund. Keeping our building. We have put a new roof on our building, costs us \$24,000 to put a roof on the building. We had used all the funds we had, which is campaign funds, to put a roof on the building. That's \$24,000 that we couldn't use to get the message out to the voters to even notify them that an election was coming. A lot of what we do is not direct campaigning as far as vote for this person, vote for that person. A lot of the things that the political parties do is to try to involve the voters, notify them of elections. Try to, we do mailers and we do say you know "Vote Republican" but we're not here just to support one Candidate. That's not our general sole purpose."

Chair Johnson says: "Excuse me,"

Pam says: "Yes, Sir."

Chair Johnson says: "We've now gone 10 minutes. Is there any objection for extending the time?"

Pam says: "Oh I am sorry."

Commissioner says: "No Objection here."

Chair Johnson says: "There's no objection, go ahead."

Pam says: "I am so sorry. I'm trying to talk fast for you."

Chair Johnson says: "That's ok, we are all here and we'll learn more."

Pam continues and says: "Well, that was really kind of concludes some of the things that, that I have personally experienced and as I said that I think has become problematic under the current laws. The corporate donations, it would be something completely new, but it is something that is used in many, many States. Talking to South Carolina, they have unlimited unreportable corporate dollars. I'm not asking for the Commission to do that, I'm just asking you, go ahead if you want to though, I'm just saying that there are all spectrums of that allowed in the campaign and political party world out there that I hope you would open up to see that our goal, and I think that every political party's goal should be, to inform their voters of an election and generalities of who their Candidate's are. And I don't think there is anything bad about that. There's nothing wrong about that. It's part of the role we play. Again, the second thing, is to change the, do a better clarification on contributions from Candidates to the Party for various purposes, the biggest one, again is being able to use our mail indicia, and right now in Oklahoma, we're using that zero. Absolutely, zero. And that's sad because 50 States and 6 Territories are using, 48 States and 6 Territories are using it. Third thing is, and again let me give you a bit more about when I talk about the local parties, most of the local parties, we have told them, I've advised them don't give money to Candidates. If you don't give money to Candidates, you don't fall under the Ethics Rules, you become just another club out there. It is what a lot of them

have begun doing on that. So, now we're in a new field to where they are uninvolved. And I don't think that was the intent behind this as well so. Thank you, for the opportunity I'll be glad to answer any questions if you guys have any for us."