

ALASKA PUBLIC OFFICES COMMISSION
MINUTES
REGULAR COMMISSION MEETING
SEPTEMBER 24-26, 2008

A regular meeting of the Alaska Public Offices Commission came to order at 9:05 a.m. on Wednesday, September 24, 2008. The meeting convened at 2221 E. Northern Lights Blvd. Rm. 128, Anchorage, Alaska.

Brackets [] indicate an agenda item number and that an information packet is included in the meeting binders.

Asterisk * indicates no information was included in the meeting binders.

In Attendance:

COMMISSION: Elizabeth Hickerson - Chair
Kathleen Frederick – Vice Chair
Shirley Dean – Commissioner
Roger Holl – Commissioner (Absent)
Kathleen (Kate) Ballenger - Commissioner

Staff: Holly R. Hill – Executive Director
Chris Ellingson – Assistant Director
Patty Ware – Project Coordinator Juneau Office
Kim Wilson - Candidate Coordinator
Vullnet Greva- Group Coordinator
Joan Mize- Administrative Clerk III Juneau office
Maria Bulfa - Recording Secretary
Wynona Sampson- Recording Secretary (In Training)

Attendees: William Milks, Department of Law (Tel-conf)
Chris Wyatt- BP Senior Attorney
Elizabeth Cloud- Enbridge Energy Company, Inc.

ON RECORD 9:05 a.m.

Chair Hickerson introduced herself and the commission members present.

Approval of Agenda

Commissioner Dean moved to approve the Agenda as amended.

Commissioner Frederick seconded the motion.

The motion passed 4-0

Approval of Minutes [1]

Commissioner Frederick made a motion to approve the August 5, 2008 commission meeting minutes.

Commissioner Dean seconded the motion.

The motion passed 4-0

Commissioner Ballenger made a motion to approve August 25, 2008 as revised by the staff.

Commissioner Dean seconded the motion.

The motion passed 4-0

Commissioner Dean moved to adopt September 11, 2008 commission meeting minutes as revised by the staff.

Commissioner Frederick seconded the motion.

The motion passed 4-0

**Kraft v. Alaska Department of Natural Resources, 08-14-CD [*]
Notice of Stipulation and Request for New Briefing Schedule**

Commissioner Dean moved to approve the notice of stipulation and request for new briefing schedule.

Commissioner Frederick seconded the motion.

The motion passed 4-0

APOC v. Coffey, 08-01-CD [*]

Mr. Amodio submitted a letter to the commission requesting a continuance in case number 08-01-CD APOC v. Coffey.

Commissioner Frederick moved to consider the request for a continuance complaint 08-01-CD, APOC v. Coffey.

Commissioner Dean seconded the motion.

The motion passed 4-0

Alaskans Against the Mining Shutdown (AAMS) v. American for Job Security (AJS), 08-10-CD [*]

Alaska Public Interest Research Group (AkPIRG) v. The Committee to Stop the Corruption, 08-15-CD [*]

Staff requested the commission continue the following matter to the November 19th, 20th and 21st meeting 08-10-CD AAMS v. AJS and 08-15-CD AKPIRG v. The Committee to Stop the Corruption.

In the matter of 08-10-CD Commissioner Dean moved to accept staff's request for a continuance in the matter.

Commissioner Frederick seconded the motion.

In the matter of 08-15-CD Commissioner Dean moved to accept staff's request on continuance in this matter.

Commissioner Ballenger seconded the motion.

The motion passed 4-0

Commissioner Ballenger moved to go on executive session to discuss legal representation for the commission and the attorney general's memo regarding regulation/legislative changes. The following staff members were requested to attend this session: Holly Hill, APOC Executive Director; Chris Ellingson, APOC Assistant Director; Jan DeYoung, Attorney General's Office; William Milks, Attorney General's Office (telephonically).

Commissioner Dean seconded the motion.

The motion passed 4-0

OFF RECORD 9:40 a.m.

Executive session

ON RECORD 10:50 a.m.

The Commission came out of executive session and proceeded with the next item on the Agenda.

Commissioner Frederick made a motion to authorize Chair Hickerson and Executive Director Holly Hill to seek a contract attorney for legal representation for APOC commission members.

Commissioner Dean seconded the motion.

The motion passed 4-0.

Commissioner Dean made a motion for staff to continue working with the Attorney General's office for an RSA to facilitate the commission's need with respect to having an attorney available when one is needed.

Commission Frederick seconded the motion.

The motion passed 4-0

OFF RECORD 10:53

Break

ON RECORD 11:00 a.m.

Advisory Opinion Request [2]

Ms. Ware presented the request for an advisory opinion from AO-08-06, LOB- BP Alaska

Mr. Wyatt, Senior Attorney, gave oral testimony in support of his request. However, Mr. Wyatt stated he interpreted the law a little different from what staff presented. The Commission requested staff to work with Mr. Wyatt and Jan DeYoung to revise the proposed opinion to include Mr. Wyatt's suggestions.

During the discussion, commission members asked staff to revise the draft advisory opinion AO-08-06 LOB-BP and to bring a new draft, with the changes as discussed.

Mental Health Trust Authority, AO 08-07-CD

Mr. Dosik presented the revised advisory opinion request for Mental Health Trust Authority, which had been included in the August 2008 commission meeting.

Commissioner Ballenger moved to approve the proposed advisory opinion AO 08-07-CD Mental Health Trust Authority.

Commissioner Frederick seconded the motion.

The motion passed 4-0

MTNT Ltd, v. Alaskans for Wildlife, 08-13-CD

Staff requested the commission continue this matter until the November 19th, 20th, and 21st commission meeting.

There were no objections to both parties in regards of request for continuance.

Commissioner Dean moved to accept the request for continuance.

Commissioner Frederick seconded the motion.

The motion passed 4-0

OFF RECORD 11:39 a.m.

Break

ON RECORD 11:40 a.m.

Commissioner Dean moved to go on executive session to discuss the litigation update. **The following staff members were requested to attend this session: Holly Hill, APOC Executive Director; Chris Ellingson, APOC Assistant Director; Patty Ware, APOC Project Coordinator, Juneau Office; Jan DeYoung, Attorney General's Office.**

Commissioner Frederick seconded the motion.

The motion passed 4-0

OFF RECORD 11:41 a.m.

Executive session

ON RECORD 11:47 a.m.

The Commission came out of executive session and proceeded with the next item on the Agenda.

Discussion of Consent Agenda [4]

Ms. Wilson presented her report that was included in the packet.

Ms. DeYoung gave oral testimony in support of Ms. Wilson's report.

During the discussion the Commission directed staff to contact the Attorney General's office to clarify Article 7 (d) in the bylaws; and also, whether there is a 30 day notice requirement to the public as indicated on the memo dated 1998 from the previous APOC Executive Director Karen Boorman. The commission asked staff to present the draft revision on the November 2008 commission meeting.

OFF RECORD 12:16 p.m.

Lunch

ON RECORD 12:55 p.m.

Discussion of Mitigation Criteria [3]

Ms. Ware presented the draft mitigation criteria for all of the APOC disclosure laws.

The commission asked staff to make the changes that had been discussed, and present a new draft, that included all the additional recommendations.

OFF RECORD 2:10 p.m.

Break

ON RECORD 2:20 p.m.

Requests to Reduce or Waive Civil Penalty Assessments for Public Official Financial Disclosure [5]

Ms. Ellingson presented the staff reports.

William A. Andrews- Member, University of Alaska, Board of Regents

LATE REPORT	2008 Annual POFD Statement
MAXIMUM CIVIL PENALTY:	\$735, Report filed 81 days late at \$5/day for the first 15 days and \$10/day each day thereafter
STAFF RECOMMENDATION:	Reduce the maximum civil penalty of \$735 by 50% to \$367.50

Mr. Andrews stated that by filing his initial POFD statement he thought his obligation to file had been met. He was under the impression that this was a one-time filing. Mr. Andrews states that because he is a full time student, the majority of his income comes from grants, scholarships, and loans for college. Though he is employed part time, a fine of this size would be difficult for him to pay.

Mr. Andrews report filed 81 days late. Mr. Andrews notified staff on April 22, 2008, that he was “right in the middle of finals and term papers” and since this was a volunteer position, other more pressing matters took precedence.

Commissioner Frederick move to impose the full penalty of \$735.

Commissioner Dean seconded the motion.

During the roll call, Commissioner Ballenger noted to have staff collect the additional late fee of \$135.00 from Mr. Andrews.

The motion passed 4-0

Kevin Jensen-Planning Commission, Lake and Peninsula Borough

LATE REPORT	2008 Annual POFD Statement
MAXIMUM CIVIL PENALTY:	\$77, Report filed 21 days late at \$1/day for the first 7 days and \$5/day each day thereafter

STAFF RECOMMENDATION: Waive the maximum assessed civil penalty of \$77

Mr. Jensen states that he was not aware of the filing deadlines and the necessary paperwork that was to be given to him by the borough clerk.

Mr. Jensen's initial Statement was filed 39 days late. APOC did not mail out information packets with forms to the borough clerks this year, thus some of the clerks missed the deadlines in distribution information the individuals required to file POFD Statements.

Commissioner Ballenger moved to accept staff's recommendation to waive the civil penalty.

Commissioner Frederick seconded the motion.

The motion passed 4-0

Stephanie McFadden, member, Domestic Violence & Sexual Assault Council

LATE REPORT 2008 Annual POFD Statement
MAXIMUM CIVIL PENALTY: \$60, Report filed 12 days late at \$5/day for the first 15 days and \$10/day each day thereafter
STAFF RECOMMENDATION: Waive the maximum civil penalty of \$60

Ms. McFadden states that she was on total bed rest due to a difficult pregnancy. Because of the situation, she was unable to get all of the necessary information that needed to disclose.

Ms. McFadden initial Statement filed 12 days late. In cases where the POFD Statement is filed late and the reason is due to health issues, the Commission has waived the civil penalties.

Commissioner Dean moved to accept the staff recommendation to waive the civil penalty due to health issues.

Commissioner Frederick seconded the motion.

The motion passed 4-0

Brenda Rebne, Member, Big Game Commercial Service Board

LATE REPORT 2008 Annual POFD Statement
MAXIMUM CIVIL PENALTY: \$405, Report filed 48 days late at \$5/day for the first 15 days and \$10/day each day thereafter

STAFF RECOMMENDATION: Waive the maximum civil penalty of \$405

Ms. Rebne states that she faxed her POFD Statement from a hotel in California on May 15, 2008, the date it was due. APOC did not receive it. Ms. Rebne states that she received a form from the hotel stating that the fax had gone through; however, she did not provide anything to support this statement. Ms. Rebne faxed a copy of the POFD Statement on July 2, 2008 from a fax machine in Alaska. This statement shows that Ms. Rebne signed her statement on May 15, 2008.

Ms. Rebne's initial POFD Statement was filed 48 days late. Ms. Rebne's statement reflects the date she signed as May 15, 2008, the date the statement was due. The Commission, has in the past, accepted the date on the faxed statement as the date of filing when it was not received by APOC.

Commissioner Dean moved to accept the staff recommendation to waive the civil penalty, because of the possibility of faxing it and APOC not receiving it.

Commissioner Ballenger seconded the motion.

The motion passed 4-0

Gail Schubert, Trustee, Alaska Retirement Mgmt Board

LATE REPORT	2008 Annual POFD Statement
MAXIMUM CIVIL PENALTY:	\$205, Report filed 28 days late at \$5/day for the first 15 days and \$10/day each day thereafter
STAFF RECOMMENDATION:	Uphold the maximum civil penalty of \$205

Ms. Schubert states that she was out of town from March 9-21, 2008 and again from March 24-27, 2008. Ms. Schubert states that she is willing to pay a fine, but requests the Commission give consideration for the time that she was traveling. In addition, Ms. Schubert attests that she did not receive the letter dated April 15, 2008 assessing the penalty.

Ms. Schubert's annual report was filed 28 days late. A reminder post card had been mailed on February 20, 2008 to Ms. Schubert, however, she had failed to update her mailing address with APOC; the post card was returned as undeliverable.

Commissioner Dean moved to accept the staff report to impose the maximum penalty of \$205.

Commissioner Ballenger seconded the motion.

The motion passed 4-0

James Taylor, City Council, City of North Pole

LATE REPORT	2008 Annual POFD Statement
MAXIMUM CIVIL PENALTY:	\$167, Report filed 39 days late at \$1/day for the first 7 days and \$5/day each day thereafter
STAFF RECOMMENDATION:	Waive the maximum assessed civil penalty of \$167

Mr. Taylor apologizes for filing his 2008 Annual Statement late, but Mr. Taylor's wife had been diagnosed with cancer at the time the report was due. Because of this diagnoses, Mr. Taylor had to travel with his wife to Fairbanks, Anchorage, and Seattle to seek treatment.

Mr. Taylor's annual report was filed 39 days late. The commission, in past cases, has classified this as a personal catastrophe; therefore, the penalty should be waived.

Commissioner Frederick moved to accept the staff recommendation to waive the civil the penalty due to personal catastrophe.

Commissioner Dean seconded the motion.

The motion passed 4-0

OFF RECORD 2:49 p.m.

Break

ON RECORD 2:51 p.m.

Request to Reduce or Waive Civil Penalty Assessments for Late Lobbyists Reports
[6]

Ms. Ware presented the staff reports and recommendations for lobbyists requesting reductions of civil penalty assessments for reports filed late.

Anchorage Museum, Lobbyist

LATE REPORT	2007 4 th quarter employer of lobbyist report
MAXIMUM CIVIL PENALTY:	\$360- report filed 36 days after the due date
STAFF RECOMMENDATION:	Waive the civil penalty

Affiant states the report was faxed timely on January 11, 2008 and that the agency's fax machine only prints a report if there is a problem. Since she did not receive any fax notice of a transmission failure, she assumed it went through. She found out APOC did

Commissioner Dean moved to adopt the staff recommendation to impose \$150 due to APOC staff error, and a good faith effort by SARDF.

Commissioner Frederick seconded the motion.

The motion passed 4-0

Enbridge Energy Company, Inc

Ms. Cloud gave oral testimony in support of her request.

LATE REPORT	2007 2 nd quarter
MAXIMUM CIVIL PENALTY:	October Special Session-\$ 1,390- Filed 83 days late. November Special Session- \$ <u>470</u> - Filed 53 days late \$1,860- Total penalties
STAFF RECOMMENDATION:	Uphold maximum civil penalty for both 2 nd and 3 rd quarter reports

Affiant statement for both the late 2nd and 3rd quarter statements are the same:

- The two primary positions responsible for completing the reports for Alaska each changed jobs. The administrative assistant changed jobs in January 2007 and her supervisor changed jobs and locations in May 2007.
- Affiant was not provided with information from persons previously responsible for these reports that the filing needed to be submitted.
- Affiant did not begin working with the company's Alaska lobbyist until late 3rd quarter (quarter runs from July-September) and the lobbyist was not aware of the company personnel changes so did not know employer reports were not being filed.

A courtesy reminder e-mail was sent to lobbyists and employers on October 4, 2007 that the 3rd quarter report was due October 31, 2007. Denise Hamsher, of Enbridge, was included on this email as the identified contact.

Commissioner Dean moved to accept staff recommendation to impose the maximum civil penalty of \$1,860

Commissioner Frederick seconded the motion.

The motion passed 4-0

Motion Picture Association of America/Submitted by lobbyist Reed Stoops on behalf of employer

LATE REPORT 2007 3rd quarter employer of lobbyist report

MAXIMUM CIVIL PENALTY: 3rd quarter employer report- \$470, filed 47 days late

STAFF RECOMMENDATION: Reduce civil penalty by \$150

Affiant's Statement of Mitigating Facts:

1. The lobbyist prepares, on behalf of his employers, the employer of lobbyist reports for the clients' review and signature each quarter and asks the employer to return forms directly to the lobbyist for tracking purposes. The lobbyist then hand delivers all reports to the Juneau APOC.
2. The 3rd quarter reports were submitted prior to the October 31, 2007 due date and the lobbyist has copies of all of them but they are not date stamped because APOC staff members were not in the office so affiant slid the reports under the door.

MPPA has an excellent filing history and staff was unable to locate evidence of the late report in the history. A courtesy reminder e-mail was sent to lobbyists and employers on October 4, 2007 that the 3rd quarter report was due October 31, 2007. The notice was sent to Vans Stevenson at MPAA and to Reed Stoops as their lobbyist.

Commissioner Frederick recused herself from deliberation because of her association with one of the parties involved.

Commissioner Dean moved to accept staff's recommendation to reduce the fine to \$150 based on excellent filing history and good faith effort.

Commissioner Ballenger seconded the motion.

The motion passed 3-0

BG North America, Lobbyist

LATE REPORT 2007 4th quarter employer of lobbyist report

MAXIMUM CIVIL PENALTY: \$10- report filed 1 day after the due date

STAFF RECOMMENDATION: Waive the civil penalty

Affiant's statement was written on behalf of the employer by Matt Gill, lobbyist for Legislative Consultants, Inc., who represents BG North America, Mr. Gill asserts the late filing was his error and not BG North America's. Mr. Gill stated that Mr. Keane

and employers on October 4, 2007 that the 3rd quarter report was due October 31, 2007. The notice was sent to Don Kubley as the MEBA lobbyist.

Commissioner Dean moved to impose the full penalty of \$440.

Commissioner Frederick seconded the motion.

The motion passed 4-0

OFF RECORD 3:53 p.m.

Break

ON RECORD 4:00 p.m.

Frank Griswold v. City of Homer 08-04-CD

Staff requested the commission continue this matter to the November 19-21, 2008 commission meeting.

Commissioner Frederick moved to accept the request for continuance hearing for the November commission meeting.

Commissioner Dean seconded the motion.

The motion passed 4-0

Civil Penalty Appeals- Candidates [7]

Ms. Wilson presented the staff reports and recommendations for candidates requesting reductions of civil penalty assessments for reports that were filed late.

Representative Richard Foster

CADIDATE FOR:	2008 House District 39
LATE REPORT:	February 15, 2008 Report
MAXIMUM CIVIL PENALTY:	\$440 February 15 th report filed 44 days late at \$10 per day
STAFF RECOMMENDATION:	Waive the civil penalty

Mr. Foster stated in his affidavit that he had suffered a stroke on January 18, 2008. On February 19, 2008, he had open-heart surgery. He was not discharged from physical and occupational therapy until March 31, 2008. Because of these events, he was unable to file his 2008 February 15 Report on time.

Mr. Foster filed his 2008 February 15 report 64 days late. In six elections cycles, Representative Richard Foster has filed all but 1 of the required reports timely. He filed his 2006 Yearend Report one day late and paid the \$10 civil penalty.

Commissioner Dean moved to accept staff recommendation to waive the civil penalty fine because of health issues.

Commission Ballenger seconded the motion

The motion passed 4-0

Representative Max Gruenberg

Representative Gruenberg was available by phone to answer questions the commission might have.

CADIDATE FOR:	2008 House District 20
LATE REPORT	February 15, 2008 Report
MAXIMUM CIVIL PENALTY:	\$250 February 15 th report filed 25 days late at \$10 per day
STAFF RECOMMENDATION:	Waive the civil penalty

Mr. Gruenberg filed his February 15, 2008 report 25 days late. Mr. Gruenberg stated in his affidavit that he filed the report as soon as he was physically able to given his physical condition, his legislative duties, and his inability to access his files from Anchorage.

Not anticipating the complications that arose from the initial surgery Mr. Gruenberg had shipped his campaign files to Juneau and was unable to access them until he arrived in Juneau.

Commissioner Dean moved to accept the staff recommendation and waive the civil penalty due to a medical disability.

Commissioner Frederick seconded the motion.

The motion passed 4-0

Commissioner Attendance at COGEL meeting [11]

During the discussion, the commissioners authorized the Executive Director to select two staff to attend the COGEL annual meeting in Chicago, December 7-10, 2008.

OFF RECORD 4:14 p.m.
Break
ON RECORD 4:16 p.m.

Status Report on Collections Streamlining [10]

Mr. Greva presented the draft payment agreement that was included in the packet.

During the discussion, the commission asked staff to apply commission's suggestion(s) in the draft payment agreement prepared by staff and meet with the Department of Law before finalizing.

Review and Approval of Chap. 4 (Contribution) [12]
Of Candidate Manual [-]

Ms. Wilson presented the draft Candidate Manual that was included in the packet.

The commission asked staff to have the Department of Law review the Candidate Manual before finalizing.

Public Comment Period

Commissioner Dean made a motion to recess until September 25, 2008 at 9:00 a.m.

Commissioner Frederick seconded the motion.

The motion passed 4-0

OFF RECORD 5:45 p.m.