

ALASKA PUBLIC OFFICES COMMISSION
MINUTES
REGULAR COMMISSION MEETING
SEPTEMBER 24, 2010

A regular meeting of the Alaska Public Offices Commission came to order at 9:10 a.m. on Friday, September 24, 2010. The meeting was held at the Anchorage APOC office on 2221 E. Northern Lights Blvd., Room 128, Anchorage, Alaska.

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

Asterisks * indicate that no information was included in the meeting binders.

In Attendance:

Commission:

Elizabeth Hickerson – Chair
Kathleen Frederick – Vice Chair (Telephonic in the morning)
Shirley Dean – Commissioner
Kathleen (Kate) Ballenger – Commissioner
Kathleen King – Commissioner

Staff:

Holly R. Hill – Executive Director
Jerry Anderson – Assistant Director
Patricia Ware – Project Coordinator Juneau Office
(Telephonically)
Barbara Dreyer – Associate Attorney II
Amy H. Robinson – Associate Attorney II
Kim Wilson – Associate Attorney I
Vullnet Grevu – Paralegal II
Joan Mize – Paralegal I (Telephonically)
Heather Hebdon – Paralegal I
Maria Bulfa – Law Office Assistant II
Reuben Yerkes – Law Office Assistant I

Attendees:

John Ptacin – Assistant Attorney General, Dept. of Law
Bill Milks – Assistant Attorney General, Dept. of Law
Merica Hlatcu – Gov. Candidate 2010 Primary Election
Representative Bob Lynn – Respondent, Complaint 10-17-CD
Deborah Brollini – Complainant, Complaint 10-17-CD

ON RECORD 9:10 a.m.

Chair Hickerson called the meeting to order.

Consent Agenda, Request to Reduce or Waive Civil Penalty Assessments for Late Candidates [18]

Ms. Hebdon presented the candidates appeals and staff's recommendations.

The following Candidates were removed from the consent agenda at the direction of the Commission:

- **Representative Mike Hawker**
- **Gerald Heikes**
- **Merica Hlatcu**
- **Senator Charlie Huggins**
- **Andy Schroeder**
- **Senator Gary Stevens**
- **William Toien**

RESPONDENT: **Representative Mike Hawker**

STATUS: Representative/Candidate for Primary House State Election

LATE REPORT: 2010 7-day Primary Report, 1 day late

MAXIMUM CIVIL PENALTY: **\$50**

STAFF RECOMMENDATION: Waive the civil penalty

Commissioner Ballenger moved to accept staff's recommendation.

Commissioner Dean seconded the motion.

The Commission voted 5-0 in favor of the motion.

RESPONDENT: **Merica Hlatcu**

STATUS: Candidate for 2010 Gubernatorial Election

LATE REPORT: 2010 30-day Primary Report, 37 days late
2010 7-day Primary Report, 15 days late

MAXIMUM CIVIL PENALTY: **\$370- 30-day primary report**
\$750- 7-day primary report
\$1,120- Total penalty

STAFF RECOMMENDATION: Waive both the 30 and 7 day Primary report civil penalty

Commissioner Dean moved to reject staff's recommendation and to apply a waiver of 50% to the maximum of \$1,120.

Commissioner Frederick seconded the motion.

The Commission took a roll call vote:

**Commissioner Ballenger – No
Commissioner Dean – Yes
Commissioner Frederick – Yes
Commissioner King – No
Commissioner Hickerson – No**

The Commission voted 2 in favor, 3 opposed. The motion failed.

Commissioner King moved to reject staff's recommendation and to uphold a \$40 civil penalty for both the 30-day and 7-day primary reports.

Commissioner Ballenger seconded the motion.

The Commission voted 5-0 in favor of the motion.

RESPONDENT: Heikes, Gerald

STATUS: 2010 State Gubernatorial Candidate

LATE REPORT: 2010 7day Primary Report, 1 days late

MAXIMUM CIVIL PENALTY: \$100**

STAFF RECOMMENDATION: Waive the civil penalty

Commissioner King moved to reject staff's recommendation and to uphold the maximum civil penalty of \$100.** (** NOTE: Staff had originally thought the maximum penalty was \$50. Commission voted as noted below to apply 50% reduction to maximum penalty under mitigation criteria. This \$100 figure correctly shows actual maximum civil penalty.)

Commissioner Dean seconded the motion.

Commissioner Dean withdrew her seconded motion.

The motion failed for lack of second.

Commissioner Dean moved to reject staff's recommendation and to apply a 50% waiver in consideration of his good filing history.

Commissioner Ballenger seconded the motion.

The Commission voted 5-0 in favor of the motion. (*Penalty of \$50 after 50% waiver was imposed*)

RESPONDENT:	Senator Gary Stevens
STATUS:	2010 State Senate Election
LATE REPORT:	2010 7-day Primary Report, 3 days late
MAXIMUM CIVIL PENALTY:	\$150
STAFF RECOMMENDATION:	Uphold the maximum civil penalty

Commissioner Ballenger disclosed that she is personally acquainted with Senator Gary Stevens, but that this relationship would not create a conflict in her decision-making.

Commissioner Dean moved to accept staff's recommendation and to uphold the maximum civil penalty of \$150.

Commissioner Ballenger seconded the motion.

The Commission voted 5-0 in favor of the motion.

RESPONDENT:	Toein, William
STATUS:	2010 State Gubernatorial Candidate
LATE REPORT:	7day Primary Report, 2 days late
MAXIMUM CIVIL PENALTY:	\$100
STAFF RECOMMENDATION:	Waive the civil penalty

Commissioner Dean moved to reject staff's recommendation and to uphold the \$100 civil penalty.

The motion failed for lack of second.

Commissioner Ballenger moved to reject staff's recommendation and to impose a \$25 civil penalty.

Commissioner King seconded the motion.

Commissioner Dean disagreed with Commissioner Ballenger's motion to reduce the civil penalty from \$100 to \$25.

Commissioner Ballenger withdrew her motion.

Commissioner Ballenger moved to reject staff's recommendation and to uphold 50% of the maximum civil penalty of \$100.

Commissioner Frederick seconded the motion.

The Commission voted 5-0 in favor of the motion.

Commissioner King moved to amend the definition of "good filing history" in the Mitigation Criteria. She moved to eliminate the word "consecutive," so that the amended definition would read: "A filer with no late filings in the previous five years."

Commissioner Ballenger seconded the motion.

The Commission voted 5-0 in favor of the motion.

Judicial Exemption Statement Review [19]

The Commission asked staff to conduct further research on this issue and that the Commission would revisit the topic at the next Commission meeting.

OFF RECORD 10:22 a.m.

Break

ON RECORD 10:36 a.m.

Commission Procedures and Roles Discussion [20]

Mr. Milks and Mr. Ptacin presented to the Commission on the subject of Commission roles and procedures.

Hearing Agenda

Alaska Energy 1st v Bob Lynn [*]

The Alaska Public Offices Commission held a hearing on the request for expedited consideration in the matter entitled, Alaska Energy 1st v. Representative Bob Lynn, 10-17-CD.

Barbara Dreyer disclosed on the record that she attends the same church as both Representative Lynn and Deborah Brollini. She further disclosed that Ms. Brollini's daughter and Ms. Dreyer's daughter attended the same day care.

OFF RECORD 11:15 a.m.

Deliberation

ON RECORD 12:05 p.m.

The Commission deliberated and announced that it would issue a written order.

Mr. Milks and Mr. Ptacin continued their presentation regarding Commission Procedures and Roles.

Technical Issue:

The Anchorage office experienced a "power outage" from 12:15 p.m. until 12:55 p.m. The Commission instructed staff continue presenting "Procedures and Roles of the Commission."

OFF RECORD 12:17 p.m.

Lunch

ON RECORD 1:00 p.m.

Hearing Agenda

Covington v. Alaska Republican Party (ARP), 10-01-CD [21]

The Alaska Public Offices Commission held a hearing on the Staff Report issued in the above matter.

OFF RECORD 1:32 p.m.

Deliberation

ON RECORD 1:40 p.m.

The Commission deliberated and based upon the staff report and findings, held that there were no violations by the Alaska Republican Party under AS 13.15.

OFF RECORD 1:43 p.m.

Break
ON RECORD 2:05 p.m.

Continuation: Consent Agenda, Request to Reduce or Waive Civil Penalty Assessments for Late Candidates [18]

The Commission asked for additional supporting documents prior to voting on these candidate appeals.

RESPONDENT: Senator Charles Huggins
STATUS: 2010 State Senate Election
LATE REPORT: 2010 7day Primary Report, 6 days late
MAXIMUM CIVIL PENALTY: \$300
STAFF RECOMMENDATION: Uphold the maximum civil penalty

Commissioner Dean moved to reject staff's recommendation and to uphold \$150 of the maximum civil penalty of \$300.

Commissioner Ballenger seconded the motion.

The Commission voted 5-0 in favor of the motion.

RESPONDENT: Schroeder, Andy
STATUS: 2010 State Candidate for Primary House State Election
LATE REPORT: 2010 7day Primary Report, 1 days late
MAXIMUM CIVIL PENALTY: \$350 – 30day Primary
\$650 – 7 day Primary
\$1,000 – Total Civil Penalty
STAFF RECOMMENDATION: Waive the civil penalty

Commissioner Ballenger moved to accept staff's recommendation.

Commissioner Dean seconded the motion.

The Commission voted 5-0 in favor of the motion.

OFF RECORD 2:12 p.m.
Break
ON RECORD 2:15 p.m.

Chair Hickerson announced that Kevin Fitzgerald, Complainants' attorney, called on September 24, 2010 at 1:37 p.m. and verbally filed a Motion for Continuance with the Commission.

Commissioner Frederick moved to reject the Motion for Continuance.

Commissioner King seconded the motion.

The Commission voted 5-0 in favor of the motion.

Steve Flory v. Representative Jay Ramras, 10-05-CD [22]

The Alaska Public Offices Commission held a hearing on the staff report issued in the above matter.

OFF RECORD 2:35 p.m.
Deliberation
ON RECORD 2:45 p.m.

The Commission deliberated.

The Alaska Public Offices Commission found there were no violations of AS 15.13 and adopted staff's recommendations from the staff report.

OFF RECORD 2:48 p.m.
Break
ON RECORD 2:50 p.m.

Minutes Approval [1]

The Commission approved the February 5, February 11, May 28, and June 10, 2010 Minutes as revised.

Technical Issue:

The Anchorage office experienced a second "power outage" from 2:56 p.m. until 5:00 p.m., yet continued with their agenda.

Jean Hellenthal v. Cathy Giessel, 10-12-CD [23]

The Alaska Public Offices Commission held a hearing to consider the Consent Agreement in the above matter.

OFF RECORD 3:20 p.m.

Deliberation

ON RECORD 3:45 p.m.

Following deliberation, Chair Hickerson announced that it had considered and reviewed the consent agreement and found that it was within the public interest to approve the consent agreement, and that therefore it was approved.

Minutes Approval Continuation [1]

The Commission continued approving the remaining minutes.

The remainder of the minutes were approved as revised.

OFF RECORD 3:45 p.m.

Break

ON RECORD 3:50 p.m.

Continuation: Request to Reduce or Waive Civil Penalty Assessments Financial Campaign Disclosure for Groups [10]

Ms. Robinson presented a spreadsheet and a recommended civil penalty regarding Alaska for Open Government's late-filed 2008 and 2009 Year-End Reports, 2008 and 2009 Statements of Independent Expenditure, and 2008 Group Registration, as requested by the Commission at the September 22, 2010 meeting.

Mr. Jacobus appeared in person on behalf of Alaskans for Open Government.

The Commission asked questions of Ms. Robinson regarding staff's recommendation.

The Commission asked questions of Mr. Jacobus.

OFF RECORD 4:30 p.m.

Deliberation

ON RECORD 4:58 p.m.

The Commission deliberated and upon return announced that a written order would follow.

Commissioner King moved to adjourn.

Commissioner Ballenger seconded the motion.

Adjourn

OFF RECORD 5:00 p.m.