

ALASKA PUBLIC OFFICES COMMISSION
MINUTES
REGULAR COMMISSION MEETING
AUGUST 5-6, 2008

A regular meeting of the Alaska Public Offices Commission came to order at 9:05 a.m. on Tuesday August 5, 2008. The meeting was held 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, (9:07 am)
Shirley Dean – Commissioner
Roger Holl - Commissioner
Kathleen (Kate) Ballenger - Commissioner (9:55 am)

Staff: Holly R. Hill – Executive Director
Chris Ellingson – Assistant Director
Jeff Berliner – Investigator
Patty Ware – Project Coordinator Juneau Office
Kim Wilson - Candidate Coordinator
Maria Bulfa - Recording Secretary
Joan Mize – Juneau Staff (*Teleconference*)

Attendees: Rachael Petro, DOA Deputy Commissioner
Anand Dubey, DOA ETS Director
Rachel Witty, Attorney General's Office
Monica Koethke, DOA ETS Project Manager
John Walsh, Lobbyist (Teleconference)
Vernon Marshall, Lobbyist (Teleconference)
Marilyn Leland, Lobbyist
Judy Bockmon, Attorney General Office
Allan Tesche, City of Akutan (Teleconference)
Susan Lund, City of Akutan (Teleconference)
Theresa Obermeyer, Public
Harold C. Heinze, CEO Alaska Natural Gas Development Authority

ON RECORD 9:05 A.M

Chair Hickerson introduced herself and the commission members present.

Approval of Agenda

Chair Hickerson discussed and approved the changes to the meeting Agenda.

Approval of Minutes [1]

Commissioner Dean moved to adopt the minutes as corrected.
No objection was made.

Executive Director Report [2]

Ms. Hill presented the executive director's report that was included in the packet.

OFF RECORD 9:59 a.m.

Break

ON RECORD 10:04 a.m.

Chair Hickerson asked Ms. Hill to quickly introduce staff and to give a brief description of their positions.

Commissioner Dean made a motion to go into executive session to discuss the Insight Computer Project update that could affect the state's finances. The following staff were requested to attend this session: Holly Hill, APOC Executive Director; Chris Ellingson, APOC Assistant Director; Patty Ware, APOC Project Coordinator Juneau Office; Rachael Petro, Department of Administration Deputy Commissioner; Anand Dubey, Department of Administration ETS Director; Monica Koethke, Department of Administration ETS Project Manager; and Rachel Witty, Attorney General's Office.

Commissioner Frederick seconded the motion.

The motion passed 5-0

Executive Session [Impact of Financial Matters]
Insight Computer Filing project update [3]

OFF RECORD 10:08 am

Executive Session

ON RECORD 11:25 a.m.

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

OFF RECORD 11:26 a.m.

Break

ON RECORD 11:35 a.m.

Request to reduce or Waive Civil Penalty for Late Lobbyist Reports [19-June packet]

Ms. Ware presented the staff reports and recommendations for lobbyists requesting reductions of civil penalty assessments for reports that were filed late. She also gave a brief overview to the commission of the filing procedures.

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

Marilyn Leland, Registered Lobbyist

Status:	Employee lobbyist and executive director for Alaska Power Association: 2007 compensation of \$19,792.88 and 2007 expenditures of 0.
LATE REPORT	2007 November special session lobbyist report
MAXIMUM CIVIL PENALTY:	\$630 – report filed 63 days after the due date
STAFF RECOMENDATION:	Waive the civil penalty

Ms. Leland filed all other 2007 reports timely and had no record of late filings from her previous time as a registered lobbyist. Prior to leaving for vacation, affiant checked with her assistant to ensure all reports were done. Affiant acknowledges that her assistant should also have known about the filing deadline, but they both missed it.

Commissioner Holl moved to assess \$100 penalty based on mitigation criteria.

Commissioner Dean seconded the motion.

Ms. Dean withdrew her second to the motion because Ms. Leland did receive proper notice sent regarding the November report filing.

The original motion died for lack of a second.

Commissioner Ballenger moved to assess \$150 based on the respondent's excellent reporting history and because it was a zero report showing no activity.

Commissioner Holl seconded the motion.

**Commissioner Frederick- No
Commissioner Dean- No
Commissioner Ballenger- Yes
Commissioner Holl- Yes**

Chair Hickerson- No

The motion fails

Commissioner Dean moved to reduce the civil penalty by 50% to \$315.

Commissioner Holl seconded the motion.

The motion passed 4-1

John Walsh, Registered Lobbyist

Status:	Contract lobbyist for multiple clients: 2007 Compensation of \$225,329 and \$4,910 expenditures in 2007.
LATE REPORT	2007 October special session lobbyist report
MAXIMUM CIVIL PENALTY:	\$720 – report filed 72 days after the due date
STAFF RECOMMENDATION:	Reduce civil penalty to \$25

Affiant was traveling out of the country for portion of this time. He didn't represent any clients with direct involvement in the subject of the special session and didn't lobby on any issues under consideration during special session.

Mr. Walsh gave telephonic testimony to support his request.

Commissioner Frederick moved to assess the full penalty of \$720.

Commissioner Dean seconded the motion.

During the discussion, the Commission agreed to reduce the fine because the lobbyist calendar was not updated for October or November and the notice sent was very specific. Mr. Walsh had previously filed a zero report. He is well aware of the zero report filing requirements even if there was no activity.

Commissioner Frederick amended her motion to reduce civil penalty by 50% to \$360.

Commissioner Dean accepted the amended motion made by Commissioner Frederick.

The motion passed 5-0

Vernon Marshall, Registered Lobbyist

Status: 2007 lobbyist for Public Safety Employees Association (PSEA): 2007 compensation of \$12,600 and 2007 expenditures of \$696.74

LATE REPORT 2007 3rd quarter lobbyist report

MAXIMUM CIVIL PENALTY: \$670 – report filed 67 days after the due date.

STAFF RECOMMENDATION: Reduce to \$25 civil penalty

Mr. Marshall didn't incur any compensation or expenditures on behalf of his client during October and both the special session and 3rd quarter reports were zero reports. Affiant requested a waiver since it was a zero report and this is the first time he's been late.

Mr. Marshall gave telephonic testimony to support his request.

Commissioner Frederick moved to uphold the full penalty of \$670.

Motion dies for a lack of a second.

Commissioner Dean moved to reduce the penalty to \$70 based on the respondent's quick response and being a new filer.

Commissioner Ballenger seconded the motion.

Commissioner Frederick- No

Commissioner Dean- Yes

Commissioner Ballenger- No

Commissioner Holl- No

Chair Hickerson- No

The motion failed 4-1

Commissioner Ballenger moved to impose 50% of the maximum penalty or \$335.

Commissioner Holl seconded the motion.

The motion passed 5-0

OFF RECORD 12:50 p.m.

Lunch

ON RECORD 1:30 pm

City of Akutan

Status: 2007 Employer of Lobbyist: Retained Mark Hickey

LATE REPORT 2007 3rd quarter employer of lobbyist report

MAXIMUM CIVIL PENALTY: \$500 – report filed 50 days after the due date

STAFF RECOMMENDATION: Reduce civil penalty to \$25

The city of Akutan has been an employer of lobbyists since 1993 and in the past 10 years has filed only one late report. The affiant states the City had staffing issues that contributed to the late report. The City had no administrator for three months in spring of 2007 and the position was only part-time until July 1. October was a very busy month for the City and their lobbyist and both entities were out of state for a meeting. The Administrator also had to visit her ill mother. Although the city received the October e-mail from APOC regarding the report due date, she was out of state at the time.

Commissioner Frederick made a motion to uphold the penalty of \$500.

Commissioner Dean seconded the motion.

Commissioner Dean- Yes
Commissioner Frederick- Yes
Commissioner Ballenger- No
Commissioner Holl- No
Chair Hickerson- No

The motion failed 2-3

Commissioner Holl made a motion assess 50% of the \$500 or a \$250 civil penalty.

Commissioner Ballenger seconded the motion.

The motion passed 5-0

John Patrick Luby, Lobbyist

Status: Employer lobbyist and advocacy director for AARP: 2007 lobbyist compensation of \$111,347.38 and 2007 expenditures of 14,066.38

LATE REPORT 2007 October special session and November special session lobbyist reports

MAXIMUM CIVIL PENALTY: October Special Session-\$700 filed 70 days late
November Special Session- \$390 filed 39 days late
\$1,090 total penalties

STAFF RECOMMENDATION: Reduce civil penalty to \$25 on the Oct. report
Reduce civil penalty to \$25 on the Nov. report
\$50 total penalty

Mr. Luby wasn't involved in the special session. He received the APOC October 4 e-mail regarding special session reports but notes there was no mention of filing even if lobbyists weren't involved in the special session. Because of this he relied on the APOC reporting calendar to guide his report submissions and thought he was in compliance since he filed his 4th quarter report timely.

Commissioner Frederick moved to waive the \$700 penalty for the report covering the October special session because the e-mail notice and the calendar were not updated to include special session report due dates and to uphold the full fine of \$390 covering the November special session report because an -email reminder was sent.

Commissioner Dean seconded the motion.

The motion passed 5-0

Bruce MacRae, Lobbyist

Status: Employee lobbyist and public affairs manager for UPS: Reported 0 for 2007 lobbyist compensation and expenditures

LATE REPORT 2007 October special session and November special session and 4th quarter lobbyist reports

MAXIMUM CIVIL PENALTY: October special session-\$380 filed 38 days late
November special session- 70 filed 7 days late
4th quarter report-\$390 filed 39 days late
\$840 total penalties

STAFF RECOMMENDATION: Waive civil penalty

Mr. MacRae did not lobby in 2007 and filed all zero reports for his first year as a registered lobbyist in Alaska. Affiant received a courtesy e-mail reminder January 4 that 4th quarter lobbyist reports were due January 31. However, he states he spoke to someone in the APOC office and was told he had only an employer of lobbyist quarterly report to file since he had terminated lobbying December 1, 2007. Because of this he didn't know he had a late quarterly lobbyist report until he received a written delinquency notice March 10, the same day.

Commissioner Frederick made a motion to reduce the fine to \$70 to reflect the late filing of the November special session report.

Commissioner Ballenger seconded the motion

The motion passed 5-0

Regan Mattingly, Lobbyist

Status: Employee lobbyist and state affairs coordinator for Alaska Primary Care Association: 2007 compensation of \$3,070 and 0 expenditures in 2007

LATE REPORT 2007 October special session lobbyist report

MAXIMUM CIVIL PENALTY: \$270 - report filed 27 days after the due date

STAFF RECOMMENDATION: Waive civil penalty

Mr. Mattingly filed all other reports for 2007 timely. Affiant didn't realize he was required to file a special session report in addition to his 4th quarter report and takes responsibility for his error.

Commissioner Frederick moved to adopt staff recommendation to waive civil penalty.

Commissioner Dean seconded the motion.

The motion passed 5-0

Gerald McCune, Lobbyist

Status: Professional lobbyist for multiple clients: 2007 compensation of \$38,000 and 2007 expenditures of \$0

LATE REPORT 2007 November special session lobbyist report

MAXIMUM CIVIL PENALTY: \$640– report filed 64 days after the due date

STAFF RECOMMENDATION: Waive civil penalty

Mr. McCune did not take part in special session. Affiant has an excellent reporting record. He didn't received notice he was late until March (that he is aware of) and was out of state during December. He requests the civil penalty be waived.

Commissioner Frederick moved to waive \$80 of the \$640 civil penalty because staff sent the first notice to his year-round address which made the report an additional eight days late and recognizing the fact he did receive the late notice.

Commissioner Dean seconded the motion.

The motion passed 4-1

Marianne Mills, Lobbyist

Commissioner Frederick recused herself from deliberation stating that she served as the general counsel of the Catholic Community Service for about 6 ½ years. Although she never met Ms. Mills, she doesn't feel comfortable making a decision.

Status: Employee lobbyist and program director for Catholic Community Services: 2007 lobbyist compensation of \$1,443.68 and 2007 expenditures of \$250.

LATE REPORT 2007 October special session and November special session lobbyist reports

MAXIMUM CIVIL PENALTY: October special session- \$740- filed 74 days late
November special session \$310- filed 31 days late
\$1,050- total penalties

STAFF RECOMMENDATION: Waive civil penalty for both October and November special sessions

Catholic Community Services is a social services non-profit agency and didn't understand that employee lobbyists are required to file reports even if the subjects covered in the special session have no relationship to the agency. Affiant's reports for

both October and November special sessions were zero reports. She requests waiver of the penalties.

Commissioner Holl made a motion to assess 50% of the \$1050 and that \$525 be imposed, taking into consideration the October and November special session reports.

The motion failed for lack a second.

Commissioner Holl amended his first motion.

Commissioner Holl made a motion to impose \$310 for the late November special session filing.

The motion failed for lack of a second.

Commissioner Dean moved to waive the penalty for the October special session report and impose 50% of the \$310 for the November special session report, which is \$155.

Commissioner Ballenger seconded the motion.

The motion passed 4-0

Eldon Mulder, Lobbyist

Status:	Contract Lobbyist for multiple clients: 2007 lobbyist compensation of \$238,500 and 2007 expenditures of \$0
LATE REPORT	2007 October special session and November special session lobbyist reports
MAXIMUM CIVIL PENALTY:	October special session- \$380- filed 74 days late November special session <u>\$70- filed 31 days late</u> \$450- total penalties
STAFF RECOMMENDATION:	Reduce civil penalty to \$185 for both October and November sessions

Mr. Mulder didn't have any oil and gas clients and was out of the country during the time of special session. He didn't pay attention to the fact that he needed to file special session reports.

Commissioner Frederick made a motion to uphold the \$450 civil penalty because Mr. Mulder is an experienced filer.

Commissioner Ballenger seconded the motion.

During the discussion Chair Hickerson pointed out, penalizing Mr. Mulder for filing the October special session report late would be treating him different from other filers that were brought before the commission.

Commissioner Frederick moved to amend her motion to uphold the penalty for the November special session report being filed late, which is \$70.

The motion passed 5-0

Tracy Oman, Lobbyist

Status:	Employee lobbyist and executive director for Alaska Optometric Association: 2007 compensation of \$771.76 and 2007 expenditures of \$1,263.94
LATE REPORT	2007 October special session and November special session lobbyist reports
MAXIMUM CIVIL PENALTY:	October special session-\$350- filed 74 days late November Special Session \$ <u>40- filed 31</u> days late \$390- total penalties
STAFF RECOMMENDATION:	Waive both October and November civil penalty

Affiant is an employee lobbyist and registered because she spent slightly over 10 hours in a 30-day period lobbying (the threshold triggering registration for a non-professional lobbyist.)

Ms. Oman was very careful to adhere to the APOC lobbying report submission schedule (attached), and all other 2007 reports were file timely;

Commissioner Holl moved to waive the October special session penalty and impose a penalty of \$40 for the delinquent November report.

Commissioner Frederick seconded the motion.

During the discussion the commission agreed to impose 50% of the penalty because of Ms. Oman's good filing history.

Commissioner Holl amended his first motion to reduce 50% of the \$40 to \$20 due to her being an inexperienced filer.

Commissioner Frederick seconded the amended motion.

The motion passed 5-0

Lisa Parker, Lobbyist

Status: Employee lobbyist and government relations manager for Agrium: 2007 compensation of \$19,728 and 2007 expenditures of \$5,867.67.

LATE REPORT 2007 November special session lobbyist report

MAXIMUM CIVIL PENALTY: \$50 – report filed 5 days after the due date

STAFF RECOMMENDATION: Waive civil penalty

Affiant did not lobby during 2007 special session so the late report was a zero report.

Ms. Parker was dealing with the shutdown of the Agrium Kenai nitrogen operations facility and the layoff of 150 workers during most of December and apologizes for the tardiness of the report.

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

Commissioner Holl seconded the motion.

During the discussion Chair Hickerson pointed out to staff and commission that Ms. Parker is an experienced filer and a \$50 fine would be appropriate.

Commissioner Dean withdrew her first motion.

Commissioner Holl withdrew his second

Commissioner Dean moved to assess a \$50 civil penalty.

Commissioner Frederick seconded the motion.

The motion passed 5-0

OFF RECORD 2:55 p.m.

Break

ON RECORD 3:00 p.m.

Chair Hickerson asked staff and commission members to re-visit the John Walsh request to reduce his civil penalty.

Commissioner Dean made a motion to waive the October civil penalty imposed earlier on Mr. Walsh, based on prior treatment of similarly situated lobbyists.

Commissioner Holl seconded the motion.

During the discussion the commission agreed to keep the decision made earlier that morning. Mr. Walsh has been a lobbyist for 20 years; he was well aware of the October special session; and he knew a zero report still needed to be filed.

Commissioner Dean withdrew her motion.

Commissioner Holl withdrew his second.

Richard Rosston, Lobbyist

Status:	Contract lobbyist for Holiday Alaska Inc.: 2007 compensation of \$1,780 and 0 expenditures in 2007
LATE REPORT	2007 October special session lobbyist report
MAXIMUM CIVIL PENALTY:	\$130 – report filed 13 days after the due date
STAFF RECOMMENDATION:	Waive civil penalty

Mr. Rosston didn't understand he was required to file reports for special sessions since it covered topics unrelated to his lobbying.

Affiant filed all other 2007 reports timely and as soon as he spoke with APOC staff and learned he had a report due, he filed it immediately.

Commissioner Frederick moved to adopt the staff recommendation.

Commissioner Ballenger seconded the motion.

The motion passed 5-0

Wayne Stevens, Lobbyist

Status: Employee lobbyist and executive director for Alaska State Chamber of Commerce: 2007 compensation of \$2,691.67 and 0 expenditures

LATE REPORT 2007 November special session and 4th quarter lobbyist reports

MAXIMUM CIVIL PENALTY: November special session \$140-report filed 14 days late
4th Quarter lobbyist report \$430-report filed 43 days late
\$570- total penalties

STAFF RECOMMENDATION: Reduce to \$220 civil penalty

Mr. Stevens acknowledged late submission of both reports. The Chamber's office assistant, who prepares all APOC reports, left the agency September 17, 2007 and it took six months to fill the vacant position. During the six month period without any office help, he got behind on numerous administrative tasks, including APOC reporting.

Affiant apologized for the late filings and asked the commission to consider mitigating circumstances in his situation of having no staff for half the reporting year.

Commissioner Frederick recused herself from deliberation stating that she served as the general counsel of the Alaska State Chambers of Commerce for several years, and that Mr. Stevens was her sole contact at that time.

Commissioner Holl moved to adopt the staff recommendation to reduce the civil penalty for the November special session and 4th quarter lobbyist reports to \$220.

Commissioner Ballenger seconded the motion.

During the discussion commission members were not persuaded to reduce the civil penalty for the November special session; however commission members were persuaded for the 4th quarter report because Mr. Stevens provided more information regarding employer of lobbyist report versus the lobbyist report.

Commissioner Holl amended his motion to retain staff recommendation for the 4th quarter lobbyist report for \$150 fine and to impose the full penalty of \$140 for the November special session total for a total of \$290.

Commissioner Ballenger as second to the original motion, accepted the amended motion.

Commissioner Holl amended his amended motion to assess the full fine of \$140 for November special session and to reduce 50% of the \$430 to \$215 for the 4th quarter lobbyist report for a total of \$355.

Another discussion ensued before the final decision. The Commission decided it was appropriate to fine Mr. Stevens \$355 because he is an experienced filer.

Commissioner Ballenger as the second to the original and the first amended motion accepted the second amended motion.

The motion passed 4-0

OFF RECORD 3:35 p.m.

Break

ON RECORD 3:40 p.m.

Ethics Training [4]

Judy Bockmon Assistant Attorney General, Executive Branch Ethics, presented training. The training contains Ethics information for members of boards and commissions under (AS 39.52).

Public Comment Period

Mr. Harold Heinze, CEO for the Alaska Natural Gas Development Authority appeared for public comment.

Commissioner Frederick moved to recess until 9:00 a.m. August 6, 2008.

Commissioner Dean seconded the motion.

The motion passed 5-0

OFF RECORD 5:10 p.m.