

LEGISLATIVE ETHICS BOARD MINUTES

February 18, 2014

The February meeting was devoted to a discussion of a pending complaint. The meeting commenced at 12:15 PM in Senate Hearing Room 3. Mr. Johnson and board counsel were present in the hearing room and the other members of the Board attended by conference call. Dr. Hoover called for public comment and there was none. The public meeting was recessed and the Board convened in executive session to discuss a pending complaint prior to determination of reasonable cause.

The public meeting was reconvened at 12:35 PM. There was no further business and the meeting was adjourned.



Kristine F. Hoover, Chair

LEGISLATIVE ETHICS BOARD MINUTES

April 15, 2014

Members and staff present: Gary B. Bashor; Eugene Green; Rep. Drew Hansen (by phone); Senator Jim Honeyford; Dr. Kristine Hoover, Chair; Stephen L. Johnson; Senator Jamie Pedersen; Kenny Pittman, Vice-Chair; Rep. Brandon Vick; Keith Buchholz and Jeannie Gorrell, Senate Counsel; Tim Sekerak, House Counsel; Mike O'Connell, Board Counsel.

The December and February minutes were approved.

Counsel introduced the topic of complimentary meals provided by lobbyists to legislators and Chair Hoover called for public comment. Members of the public who spoke to the issue were Rob Kavenaugh, Richard Hodgins, John Boylon and Bob Jacobs. Some of the points raised by them were: (1) Existing Public Disclosure Commission reports of meals are not functional or accurate; (2) sometimes there are conflicts between conduct which may be legal but which is not ethical and in such cases what is the best ethical conduct should be the standard; (3) lawmakers should receive no free meals from lobbyists; (4) there is no one answer or approach, other than a complete ban, which will make the issues surrounding gifts to elected officials go away; (5) the legislative and executive branches should coordinate their approaches to gift-giving; (6) ethics rules should stress disclosure, transparency and easy accessibility to the information by the public; and (7) lobbyists who can afford to entertain gain a level of access to lawmakers which is not available to ordinary citizens who do not have the same resources.

The Chair thanked the participants for their input. The Board agreed on a process for future discussion and public input. Proposals for a potential rule on the subject of meals would be collected from members of the Board and distributed for further discussion at the June 17, meeting. These proposals should consider the issues of frequency of meals, the reporting of meals, and any exceptions. The Board clarified that its focus was on meals provided by lobbyists. Chair Hoover noted that the Board is scheduled to meet in June, August and October and that the Board should strive to have an answer for legislators, lobbyists and the public no later than the October meeting. Board members agreed. Senator Pedersen asked Counsel if the Board could adopt a rule which prohibited all gifts of meals. Counsel responded that the statute permits some unspecified number of meals so that a prohibition on all meals would require legislative action.

Counsel provided two examples of informal advice on the issue of gifts of travel to legislators. A proposed trip to Turkey did not appear to meet the criteria for the gift exemptions because it did not appear to be a trade mission nor did it appear from the available facts that a legislator would be appearing "in an official capacity" as that term has been described in opinions of the Board. However, the Act and opinions of the Board supported informal advice that legislators could accept a gift of travel from Wyoming officials to participate in a tour of the coal industry and mining reclamation projects.

Employment disclosure filings were received from legislative employees Daniel J. Jones, Jordan Smith, Adam Hall, Judy Rodgers-LaVigne, Gary Wilburn and Aldo Melchiori. Counsel suggested, and the Board agreed, that a new disclosure form might be less confusing and of more benefit to all. Counsel will prepare a draft or drafts before the next legislative session for consideration by the Board.

The public meeting was recessed at 1:15 PM and the Board convened in executive session to discuss quasi-judicial matters related to a pending complaint and prior to a determination of reasonable cause.

The public meeting was reconvened. There was no further public comment or business and the meeting adjourned at 1:35 PM.



Kristine F. Hoover, Chair

LEGISLATIVE ETHICS BOARD MINUTES

June 17, 2014

Members and staff present: Gary B. Bashor; Eugene Green; Rep. Drew Hansen; Senator Jim Honeyford; Dr. Kristine Hoover, Chair; Stephen L. Johnson; Senator Jamie Pedersen; Kenny Pittman, Vice-Chair; Rep. Brandon Vick; Keith Buchholz and Jeannie Gorrell, Senate Counsel; Tim Sekerak, House Counsel; Mike O'Connell, Board Counsel.

Other staff in attendance: Barbara Baker, Chief Clerk; Bernard Dean, Deputy Chief Clerk; Brad Hendrickson, Deputy Secretary of the Senate; Marnie Hamlin, Senate Accounting.

The April minutes were approved.

The Chair invited the public to testify on the topic of complimentary meals provided to legislators by lobbyists. Brother John Boylan stated that simplicity can be liberating so simply have the legislators pay for their own meals. There is no sense to make it overly complicated. When you consider the per diem allowance has gone from \$90 to \$120, there is no need for lobbyists to pick up the tab. Sarah Jane Siegfried said she was appearing as a public citizen, representing herself. She stated she had been a non-profit lobbyist, did not have an expense account, and it cost her access to legislators. It is not just about money. Cynicism is a big issue. Why should there be any free meals? Steve Gano, lobbyist, said access is not necessarily bad. Lobbyists compete with out-of-town visitors for appointment times so we use meal time to discuss issues in greater detail. How can you define or enforce getting together with a legislator over a beer? There is value in getting to know one another better. Representative Manweller said he feared that severe limits on meals would result in 1% of legislators dictating the rules. Many of us are not retired Microsoft employees or partners in a law firm. I teach college classes and make a modest wage and bring my family to Olympia during legislative sessions. If you severely limit the number of meals then only the wealthy can participate. We are not all from Mercer Island. The Board should be careful to not create a system where only the rich can participate. We are a citizen legislature-everyone should be allowed to participate. Richard Hodgkin identified himself as co-chair of a synagogue committee. The Northwest Hunger Coalition had a legislative agenda for 2014, the estimated need was \$2.8 million and we were funded at \$1 million. At the same time, per diem was increased from \$90 to \$120. On this issue of meals we need disclosure, transparency and accessibility to information. We should know who is buying the meal and it should be deducted from per diem.

Board members began their discussion on the subject. Rep. Hansen said his preference was no meals but the statute says "infrequent" so some number is allowed. I have proposed 3-5, with everything to be reported. Senator Honeyford said it was his view that the Board is just supposed to define frequency and what is a meal. Senator Pedersen said 1 per week was his view, that seemed infrequent, and the public is paying us to cover expenses. Mr. Johnson prefers picking a number to be applied on an annual basis and said that it is the Board's job to pick a number. Mr. Pittman said he was looking a reporting system based upon quarters - so

many meals per quarter and that idea came from an earlier board opinion. He reminded the Board that that opinion also said that one meal a month at an expensive restaurant might be too much. He also said that if a meal is paid for by a legislator and reimbursed from per diem, it wasn't a gift any longer.

Rep. Vick said the Board's job, its charge, is to define "infrequent," not the creation of a new data base. I struggle with including a dollar amount. Where do we get that authority? Where is that in the statute? The question here is frequency. 16 seem too low and 52 seem too high.

Dr. Hoover asked if the Board members were agreed there should be some reporting to the House and the Senate. Discussion followed. Some seemed to agree, others did not, and others were not sure. Concerns were expressed about how such a system might be instituted.

Mr. Johnson said that if there were to be reports to the House and the Senate shouldn't those be just the number of meals? That is what the statute says. It doesn't say anything about getting into detail and he wouldn't favor that approach.

Bernard Dean and Brad Hendrickson spoke on behalf of the House and Senate administrations. Both expressed doubt that they could lower per diem for members by some sort of reimbursement system, as some have proposed. Their concerns were both legal and practical they said.

Barbara Baker asked the Board what the House was supposed to do when it received this information. Are we supposed to monitor them, keep track of the numbers, give notice to a legislator when the ceiling is reached or being approached, and inform the Ethics Board? She said she did not feel the House and the Senate had any role in this. Their only connection to this issue might be related to per diem since they make those payments, but that she failed to see or understand the role of either house in collecting information about meals paid for by lobbyists. That is a PDC function, they should be doing that.

Rep. Hansen asked what a meal is. Is it food for breakfast, lunch or dinner, regardless of cost? I guess it is what the Board says it is – we need to define a meal.

Counsel responded that the Board could adopt a definition. It could be breakfast, lunch or dinner. It could be any meal, however characterized. A board rule would have to be clear on that if the Board places a limit on the numbers. Rep. Hansen said he agreed and that he would like to see that approach taken in any draft rule – a definition of a meal.

Senator Honeyford suggested that if there is a reporting requirement perhaps it should be limited to the legislative session because that is the timeframe that was explored and that seems to be when the issue of meals becomes an issue. That is when frequency really becomes the issue. We should define meals, breakfast, lunch or dinner might be sufficient, and say that means this many, whatever the number. The statute says "in the ordinary course of meals." To me that means breakfast, lunch or dinner. We are talking about legislators and lobbyists, not

staff and our constituents back home. We agreed on that earlier, the scope of any rule, and I think a rule should make that clear.

Judge Bashor said the statute says "food and beverages." To him that seemed a clear requirement that both had to be provided. That would mean, he said, that in his view a beer, or a cup of coffee, or as one member used as an example, a bag of chips, by themselves is not a meal. Senator Pedersen felt the statute could be interpreted differently. Some discussion followed.

Rep. Vick questioned whether the Board could adopt a rule that speaks to per diem? Didn't we say and agree in our earlier opinions on meals that we don't have any jurisdiction over these per diem statutes? Those have nothing to do with the Ethics Act. I don't understand how we can say in a rule that we have that authority.

Rep. Hansen said what he was hearing is that this reporting issue can get very complicated for the House and the Senate, even if the Board has the authority to get into that. Rep. Vick agreed. He said that is what he heard and, moreover, we are just assuming that so many meals equal so much undue influence. What if, he asked, all legislators just reported all meals to the PDC; the public can look at that and decide for themselves if that person should stay in office? I haven't heard anything that suggests to me that legislators are influenced one way or the other because of meals, either the frequency or whether it is a burger and a beer or something else.

Rep. Hansen said he would be comfortable with no per diem approach and no reporting to the House and Senate. Detail is a problem and there is also a problem with what the proper role is or should be for the House and Senate.

Senator Pedersen said he could support language that said the House and the Senate are not expected to do anything with regard to monitoring, enforcement, etc. I feel we should ask Counsel to explore with the two chambers what a report could look like. What will work for the House and the Senate?

Dr. Hoover summed up. We need to define a meal, define frequency, and find out what if anything will work for the House and the Senate. Are we agreed on that? Yes, was the response. Counsel will then draft something for us to consider next time.

A brief presentation by Senate and House Counsel followed. The issues they presented related to the cost of travel by legislators and staff. How do you compute that cost when a tour is involved? Where and when does the tour start? Is a gift of travel measured by the mode of travel? Should a legislator be accountable for a pro rata share of the cost of a helicopter tour based upon what it would cost to rent a helicopter? The Board agreed these issues should be discussed at future meetings and suggested the two of them could work together and maybe the Board would look at the possibility of an advisory opinion.

The Chair called for further public testimony and there was none. The public meeting was recessed at 2:30 and the Board convened in executive session to discuss quasi-judicial matters related to pending complaints and prior to a determination of reasonable cause. The public meeting was reconvened at 3:10. The Chair again called for public comment and there was none.

There was no further business and the meeting adjourned at 3:15.

A handwritten signature in black ink, appearing to read 'K Hoover', written in a cursive style.

Kristine F. Hoover, Chair

LEGISLATIVE ETHICS BOARD MINUTES

August 19, 2014

Members and staff present: Eugene Green; Rep. Drew Hansen (by phone); Senator Jim Honeyford; Dr. Kristine F. Hoover, Chair; Stephen L. Johnson; Senator Jamie Pedersen; Kenny Pittman, Vice-Chair; Rep. Brandon Vick; Keith Buchholz and Jeannie Gorrell, Senate Counsel; Mike O'Connell, Board Counsel.

The June minutes were approved.

Chair Hoover invited the public to testify on the topic of complimentary meals and two members of the public responded. Mr. Richard Hodgin informed the Board that he had submitted an on-line petition on the subject and that the petition stressed full disclosure of free meal events and easy public access to that information. He stated the information should be available through the Public Disclosure Commission. The preferred way to deal with free meals, he said, was to do away with them and have the legislators pay for their own meals with the use of their per diem. Mr. Paul Telford testified that he had a long history on the issue of free meals for elected officials. He served as an Olympia Port Commissioner and for several years advocated for a set of general principles which discouraged the receipt of free meals in most situations. He stated that he personally did not favor a reporting system or setting a number of meals which may be accepted – rather, officials should decline all complimentary meals unless that refusal would be inappropriate under the particular circumstances or socially awkward.

The Board discussed the draft rule on complimentary meals. Senator Pedersen said he viewed the statute on infrequent meals as a type of safe harbor in that if legislators received meals on an infrequent basis there were no other prohibitions in the Ethics Act on the number of meals which may be accepted. There was some discussion about limiting the application of the rule to lobbyists and lobbyist-employers, but the Board concluded that it originally agreed to that limitation for the purposes of addressing the particular issue brought before it – complimentary meals provided to legislators by lobbyists and their employers. Following agreement on the scope of the proposed rule, the Board considered the definition of “infrequent.” After much discussion a majority of the Board voted in favor of setting the limit of meals per calendar year to twelve, and meals will be interpreted as breakfast, lunch or dinner regardless of cost.

Counsel was directed to prepare a draft rule for the October meeting which reflected the action taken by the Board and to include examples of meals which do or do not count toward the limit of twelve. Mr. Green asked if it was necessary to schedule an October discussion on the reporting of meals. He noted that previous discussions had, in his view, revealed there were limits on the Board's ability to direct a reporting system be established. After discussion, the Board

determined that it would prefer to have another discussion on reporting with the House and the Senate at the October meeting.

There was no further public testimony. The meeting was recessed at 1:25 pm and the Board convened in executive session to discuss quasi-judicial matters related to a pending complaint and prior to a determination of reasonable cause. The public meeting was reconvened at 2:25. The Chair again called for public comment and there was none.

There was no further business and the meeting was adjourned.



Kristine F. Hoover, Chair

LEGISLATIVE ETHICS BOARD MINUTES

October 14, 2014

Members and staff present: Gary Bashor; Eugene Green; Rep. Drew Hansen; Senator Jim Honeyford; Dr. Kristine F. Hoover, Chair; Stephen L. Johnson; Senator Jamie Pedersen; Kenny Pittman, Vice-Chair; Rep. Brandon Vick; Keith Buchholz, Senate Counsel; Mike Hoover and Cathy Maynard, designated ethics advisers; Mike O'Connell, Board Counsel.

The August minutes were approved.

Chair Hoover called for public comment on the latest draft of proposed board rule number 5 – Infrequent Meals. Comments on the draft were received from Jay Heyman, Richard Hodgkin, Lee Suito, Andrea Cohen and John Boylan. All agreed that the reporting of free meals provided to legislators by lobbyists was an important issue which was not addressed in the proposed rule. Andrea McNamara-Doyle, Executive Director of the Public Disclosure Commission, explained the PDC reporting mechanisms and identified some reporting changes adopted by the PDC by rule.

The Board was in general agreement that the PDC would be the appropriate recipient of reports of free meals provided by lobbyists, but that the Board lacked jurisdiction to impose a reporting system by rule. After further discussion the Board unanimously adopted Rule 5, as amended. Counsel was directed to provide, for discussion at the next meeting, an example of language which would reflect possible amendments to reporting laws which would result in legislators reporting complimentary meals to the PDC.

The public meeting was recessed at 2:00 PM and the Board convened in executive session to discuss quasi-judicial matters related to a pending complaint and prior to a determination of reasonable cause. The public meeting was reconvened at 2:45. The Chair again called for public comment and there was none.

There was no further business and the meeting was adjourned.



Kristine F. Hoover, Chair

LEGISLATIVE ETHICS BOARD MINUTES

December 2, 2014

Members and staff present: Gary Bashor; Eugene Green; Dr. Kristine F. Hoover, Chair; Stephen L. Johnson; Senator Jamie Pedersen; Kenny Pittman, Vice-Chair; Rep. Brandon Vick; Keith Buchholz and Jeannie Gorrell, Senate Counsel; Mike Hoover, House designated ethics adviser; Andrew Logerwell, House Counsel; Mike O'Connell, Board Counsel.

The October minutes were approved. Dr. Hoover and Mr. Pittman were reelected by the citizen board members to serve as Chair and Vice-Chair for 2015. The Board approved the meeting schedule for 2015: February 10; April 21; June 16; August 18; October 20; and December to be determined.

The Chair called for public comment on the continuing discussion of complimentary meals and, more specifically, comments on a bill draft which would require that reports of those meals be filed with the Public Disclosure Commission. Three members of the public offered comments. Rev. John Boylon expressed frustration with the pace of the discussions on complimentary meals but stated he was glad the Board had taken what he views as a first step. He said he believes that ultimately we will get to the point where there is no more buying time with legislators. Imam Jamal Rahman stated he was in favor of the reporting of meals. He feels it sends an important and critical moral message that the political system should serve all equally and that the moral message of a reporting system is justice for all. Lee Suitor told the Board that every person is accountable to others, the Board has to create a system of accountability and that has become the job of the Board.

The Chair thanked the participants and the Board began a discussion of the draft. Senator Pedersen said he believed it would be good for the Board to suggest to the Legislature that there be reporting. He suggested narrowing the draft so it was clear that the reporting would be limited to legislators and not staff nor members of the executive branch. Discussion followed. Senator Pedersen moved that the Board request the legislation provided it was amended to limit its application. Mr. Johnson stated he would have to vote against the motion. He said the Board has done what it was called upon to do and that was to set a limit on meals and define the word "infrequent." Now, the Board is taking up the reporting question and that question is beyond the scope of the Board's initial involvement with the issue of meals. Mr. Pittman said he had no problem with asking legislators and lobbyists to report these free meals. Rep. Vick asked if the Board was voting on a concept or would Counsel bring a new draft back for consideration? Senator Pedersen responded that it was a concept but that it was not difficult to clarify the draft by the simple insertion of some language that the bill was limited. Rep. Vick stated that while he was generally in favor of some reasonable reporting system, he was probably a "no" vote on the idea of approving a concept rather than another draft. Judge Bashor said he preferred a simpler approach that didn't allow any free meals from lobbyists. He noted that these free meals would not be allowed in either the executive or the judicial branch. However, he said, he was in favor of moving forward on the issue and would support a request bill on reporting. Mr. Johnson noted

there were simpler ways to keep track of meals. Legislators could report them to the House or the Senate and this wouldn't involve new laws or changing the way the Public Disclosure Commission does business and that the draft would probably cost the PDC money and changes to their reporting systems. Mr. Pittman responded by saying the Board considered the possibility of in-house reporting but that both houses said it wasn't workable. Mr. Pittman seconded Senator Pedersen's motion. There was further discussion. Mr. Green said he had sympathy for Rep. Vick's position that it was difficult to vote for a bill which would read differently than the one before the Board. The process, he said, made him feel there must be a better approach. He asked if the members were going to receive the new language at some point so they could comment on it. If so, could not the Board end up in a great deal of confusion as Counsel tried to keep track of proposed changes and comments – where would the process end? Senator Pedersen then identified the words he was proposing, and where they would fit in the draft. Chair asked for final comments. Mr. Johnson said he wouldn't move forward on the draft and that the Board has identified the line between frequent and infrequent. Rep. Vick stated he was not opposed to reporting but for him, he could not vote "aye" without a final draft. Mr. Green said he appreciated that point of view but suggested the Board move forward and that there should be some sort of reporting requirement. Without it, he said, the citizenry only ends up with half-a-loaf. Judge Bashor said he thought it was time to move forward and that he agreed that Senator Pedersen's approach was the right way to proceed. Chair Hoover called for the vote and the Board approved the draft as orally amended. Counsel was directed to make the changes and provide the amended bill and signature sheets to legislative members of the Board for their consideration for introduction as a request bill from the Board.

Chair Hoover appointed a sub-committee to study questions related to the valuation of travel taken by legislators and staff. Messrs. Green, Johnson, and Pittman will work with House and Senate Legal Counsels and report back to the Board on their findings as well as any suggestions they may have for considering an advisory opinion. No sub-committee report is contemplated by the February meeting but more likely to be expected by the April meeting.

House Leadership Counsel Mike Hoover introduced Andrew Logerwell as the new House Counsel. Andrew succeeds Tim Sekerak and was most recently an Assistant Attorney General. Chair Hoover welcomed him and said she looked forward to his participation as a designated ethics adviser.

Counsel provided the Board with one example of informal advice on meals given since the last meeting. A contract lobbyist with several local government entities as clients arranges for his clients to meet for lunch or dinner with legislators. The purpose is to provide the client's an opportunity to discuss legislative issues of importance to them. The meal would be paid for by the lobbyist or the client. The question, do each of these meals count as one of the twelve identified in Board Rule 5, was answered with a "yes." Counsel pointed out there was no exception from the 12 meal limit for meals provided by government entities who were employers of lobbyists – no "government" exception. Representative Vick pointed out that it should be possible to arrange meetings with meals as hosted receptions, thereby invoking the reception exemption found in the Ethics Act. Counsel agreed and reminded the Board that the new meals

rule states that it is not intended to do away with or amend those sections in the Act which permit meals in settings such as hosted receptions.

Mr. Christopher Carlile, Director of House Financial Services, presented a history of board budget allocations and expenditures and answered several questions about the budget process. Mr. Carlile explained it was rather early in the budget process for the next biennium but at this point it appeared the next budget should be similar to the current budget. Issues which would require an upward adjustment, such as salaries and benefits, most likely won't be decided until late in the session.

Counsel revisited an issue briefly touched on at the last meeting and that was the letter and explanation from Barbara Baker, Chief Clerk, on how some Representatives had inadvertently exceeded their postage and production budgets. The issue was important, said Counsel, because the Ethics Act requires the establishment of those budgets and adherence to them. In this case, however, several system-related issues beyond the legislator's control or knowledge led to the problem and these, said Ms. Baker, have been addressed and fixed. The Board seemed satisfied with the explanation.

The Chair called for further public comment and there was none. There was no further business and the Board adjourned at approximately 1:40.



Kristine F. Hoover, Chair

Date;