

BEFORE THE OREGON GOVERNMENT ETHICS COMMISSION

In the Matter of	)	STIPULATED FINAL ORDER
	)	
Tonya Graham	)	CASE NO. 23-027EMW
	)	
_____	)	

1. PURPOSE: The purpose of this stipulated final order is to release, settle and compromise any and all claims, allegations, and charges that have been asserted by the Oregon Government Ethics Commission (Commission) in the above-referenced case against Tonya Graham.
2. JURISDICTION: At all material times, Tonya Graham was a member of the City Council and the Council Chair for the City of Ashland (City). Ms. Graham is currently the City's Mayor. As such, Tonya Graham is a public official subject to the jurisdiction of the Commission pursuant to ORS Chapter 244.
3. STIPULATED FACTS:
 - A. An actual conflict of interest is defined in ORS 244.020(1) as arising when a public official, acting in their official capacity, participates in any action, decision, or recommendation, the effect of which would be to the private financial benefit or avoidance of detriment for the public official. A potential conflict of interest is defined in ORS 244.020(13) as arising when a public official, acting in their official capacity, participates in any action, decision, or recommendation, the effect of which could be to the private financial benefit or avoidance of detriment for the public official.

- B. ORS 244.120(2) requires an elected public official, when met with an actual or potential conflict of interest, to publicly announce the nature of their conflict of interest. If the conflict of interest is potential, after making the public announcement, the official may continue to participate and vote on the matter giving rise to the conflict. If the conflict of interest is actual, after making the public announcement, the public official must refrain from participating in any discussion, debate, or vote on the issue out of which their conflict of interest arises.
- C. The Ashland City Council consists of a Mayor and six Councilors. The Mayor is paid a salary of \$500 per year and the Councilors are paid a salary of \$350 per year.
- D. On January 23, 2023, the City's Mayor resigned her position, effective January 25th. Two days later another city councilor resigned. This left two vacancies on the City Council, including that of Mayor.
- E. On January 31, 2023, the City Council held a special meeting to address the process for filling the two vacancies. The Council considered whether to appoint from within the Council or conduct a public application process. One Councilor attempted to nominate Councilor Graham for the Mayor's position, but instead the Council voted to take a week to consider the vacant position of Mayor and to see if appointing from within the council body was a viable option.
- F. At its February 7, 2023, meeting, one Councilor nominated Councilor Tonya Graham to be appointed as Mayor. Another Councilor asked Ms. Graham if she would accept the nomination, and Ms. Graham said she would. The City Council then took a roll call vote on the motion to appoint Tonya Graham as Mayor for the City of Ashland. Councilor Graham voted in favor of the Motion. She did not make any comments, beyond accepting the nomination. When she voted on her own appointment as Mayor, Tonya

Graham did not make any conflict of interest announcement nor did she refrain from participating in the vote.

- G. Ms. Graham's actions on February 7, 2023, had a direct and certain financial impact on her as her yearly official compensation increased by \$150, from being a Council member (\$350 per year) to becoming the Mayor (\$500 per year). Because this financial impact was certain, Ms. Graham was met with an actual conflict of interest, requiring her to make a public announcement of her actual conflict of interest and then refrain from participating in any discussion or voting on the matter. By failing to do so, Tonya Graham violated ORS 244.120(2)(b).
- H. At a subsequent council meeting held on February 21, 2023, Ms. Graham made a public statement that she inadvertently failed to disclose her actual conflict of interest at the February 7, 2023 meeting. Ms. Graham asked a fellow councilor to make a motion to reconsider her appointment as Mayor. She then made a public announcement declaring her actual conflict of interest and refrained from voting on the reconsideration of her appointment as Mayor.
- I. The actions described in paragraphs 3(F) and 3(G) constitute one violation of ORS 244.120(2).
- J. ORS 244.350 authorizes the Commission to assess civil penalties of up to \$5,000 for each violation of ORS 244.120 set forth in paragraph 3(I).
- K. The results of the Commission investigation, if submitted through exhibits and testimony at a contested case hearing, would establish a preponderance of evidence in support of a post-hearing order to find one violation of ORS 244.120(2).

4. TERMS OF SETTLEMENT:

The parties agree as follows:

- A. On April 28, 2023, the Commission considered information in the preliminary review phase of Case No. 23-027EMW and acted to find cause to initiate an investigation of this matter. Tonya Graham has indicated that she wishes to conclude this matter by agreeing to the terms and conditions in this order without completing the investigative phase.
- B. In lieu of a civil penalty, Tonya Graham will receive a letter of education, as authorized by ORS 244.350(5), in order to settle and compromise this matter.
- C. The Commission releases, settles and compromises any and all claims, allegations and charges that have been or could be asserted against Tonya Graham within the scope of the above-referenced proceedings.
- D. Tonya Graham will initiate no claims, litigation, or other action against the Commission as a result of these proceedings.

5. REVIEW BY COUNSEL:

- A. All of the parties hereto acknowledge that this agreement has been entered into by their own free will and with full understanding of the contents herein. Each of the parties further acknowledges that each has had the opportunity to seek the advice of counsel in reviewing and entering this agreement.

6. EFFECT:

This agreement is subject to the final approval of the Commission. Once approved, this agreement shall be the final disposition of these matters and shall be binding upon all parties.

By signing this agreement, Tonya Graham agrees to waive her right to a contested case hearing as provided in ORS Chapter 183 and ORS 244.370. This order shall be the final order and all information in the Commission files on this matter shall become part of the record.

By signing this agreement, Tonya Graham agrees to waive her right to obtain judicial review of this order as provided in ORS 183.482.

IN WITNESS WHEREOF, the parties have entered into and signed this stipulated final order on the dates set forth below.



Tonya Graham

8/7/23
Date



Shawn Lindsay, Vice Chair
Oregon Government Ethics Commission

8.25.23
Date