

**OKLAHOMA VETERANS COMMISSION  
TRANSCRIBED MINUTES  
January 27, 2023, 10:00AM  
Vezev Veterans Complex  
2132 NE 36<sup>th</sup> St  
Oklahoma City, OK 73111**

**NOTICE OF SPECIAL MEETING:**

The Oklahoma Veterans Commission held a special meeting on Friday, January 27, 2023, at 10:00AM. This meeting was held at the Vezev Veterans Complex, 2132 NE 36<sup>th</sup> St, Oklahoma City, OK 73111. A Notice of this meeting was filed with the Secretary of State's Office on January 24, 2023.

*This meeting was transcribed at the request of Vice Chairman Ellington on March 23, 2023, from a provided recording of the January 27, 2023, meeting as I'vell as via notes provided to the transcriber. The transcriber, ODVA Communications Director Jennifer Bloomfield was neither an employee of ODVA nor present at the time of this meeting.*

**AGENDA:**

**Friday, January 27, 2023, 10:00 AM**

**I. CALL TO ORDER**

**10:02am**

**Ellington:** I'd like to call this meeting to order please. The clerk will pass the roll call.

**II. DETERMINATION OF QUORUM**

**A. ROLL CALL AND DETERMINATION OF QUORUM**

**Clerk:** Commissioner Allen?

**Allen:** Present

**Clerk:** Commissioner Ellington?

**Ellington:** Present

**Clerk:** Commissioner Martin?

**Martin:** Present

**Clerk:** Commissioner McEver?

**Clerk:** Commissioner Offel?

**Offel:** Present

**Clerk:** Commissioner Orr?

**Orr:** Present

**Clerk:** Commissioner Perry?

**Perry:** Present

**Clerk:** Commissioner Sweeney?

**Sweeney:** Present

**Clerk:** Mr. Ellington, we have seven present. One absent.

**Ellington:** I declare there is a quorum.

**Offel:** Mr. Chairman, will the leadership from ODVA be joining us?

**Ellington:** No

**III. VERIFICATION OF PROPER NOTICE OF MEETING TO SECRETARY OF STATE AND POSTING OF THE AGENDA**

**Ellington:** Can the clerk verify that the proper notice of this meeting was given to the Secretary of State as required by the Open Meetings Act?

**Clerk:** Yes, yes Mr. Chairman

**Ellington:** Can the clerk verify that the posting of the agenda for this meeting was posted at least 24 hours prior to the meeting date and time?

**Clerk:** Yes, Mr. Chairman

**IV. INVOCATION**

**Ellington:** I would like to lead us in the invocation. Please stand. Please bow our heads in prayer. Father in heaven we humbly come to you this morning as a collection of individuals who are unified in one goal, and that is to serve all Oklahomans who have taken an oath to support and defend the constitution of this

great land which you have created and that we are so blessed to call our home. Heavenly Father, in dawning our nations cloth, these men and women and their families have sacrificed mightily, and they deserve the very best support that our state can provide. Father, we ask you to bless this Commission, to bless the ODVA staff, the people in attendance and the stakeholders and our law makers who are all here today. We ask that you send the Holy Spirit to rest upon each of us in this room so that we may work together in harmony as we strive to improve the delivery of benefits and services to our Oklahoma military veterans and their families. We ask these things in the holy name of your son Jesus Christ who you sent to this earth to save us all. In the name of the Father, the Son, and the Holy Spirit, amen.

## V. PLEDGE OF ALLEGIANCE

**Ellington:** Commissioner Offel, would you lead us in the Pledge of Allegiance?

**Offel:** I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation, under God, indivisible, with liberty and justice for all.

## VI. INTRODUCTION OF COMMISSIONERS

1. Brett Martin- American Legion
2. Daniel Orr- Disabled American Veterans
3. Ted Perry- Veterans of Foreign Wars

**Ellington:** I'd like to take this time to welcome our guests and visitors and to introduce our new Commissioners. Commissioner Brett Martin, The American Legion. Commissioner Daniel Orr, and Commissioner Ted Perry. And I'd like to welcome all of our law makers and guests who are in attendance today. Your presence here is indicative of the passion which each of you holds in your hearts when it comes to the issues that involve out state veterans' community. This passion resonates and is shared not only by the members of this governing board, but also by our Governor, his cabinet, our lawmakers, and members of the ODVA staff and the multitude of veteran service organizations across our state, many of which are represented here today. Additionally, I would be remiss if I didn't include in this mix, the overwhelming majority of Oklahomans across the state who can't be here today. We have a very sacred and specific mission here. And that is to increase and improve the range and the delivery of the benefits and services to our Oklahoma military veterans. We pledge to each of you in this room, as well as those Oklahomans across the state who cannot be here with us this morning, that this commission will keep the sacred mission and our front sight focus as we move forward. I would also like to briefly comment on one of the many rumors that are circulating throughout our state. And that is that this board at the direction of Governor Stitt is hell bent upon privatizing our state seven veterans' retirement homes. This rumor, which is one amongst many that are floating around, are as a collective untrue. I assure you that neither the Governor nor the Secretary of Veterans and Military Affairs has ever raised this issue with any of us. I will never

vote to privatize our state veteran retirement homes, I spent 20 years on active duty in the US Navy. My wife and I made 12 military moves during those years. And I've seen firsthand the outcome of privatizing base security of privatizing base morale, welfare and recreation services, and the privatizing of the operations of our military base housing. And believe me, from my perspective, each of these privatizing efforts have resulted in a decrease in the quality of service. I will never vote in favor of the privatization of our state's veterans retirement homes. Privatization was the wrong choice in the examples I just listed. And they would be the wrong choice for Oklahoma's most vulnerable veterans. I think if you look around the table at the commissioners seated here, that you will see them nodding in agreement. So, starting today, let's work together. Although we may sometimes disagree on the process. I think we all want the same outcomes. And I'm confident that to borrow language from our 16th President, that with a unified spirit of charity toward all and malice toward none, we can get there. Thank you.

**Offel:** Mr. Chairman?

**Ellington:** Yes, sir?

**Offel:** Before we get started, I'd like to understand, I'm aware that Secretary Nash had a conflict and that Director Kintsel is on military duty, and that Commissioner McEver gave notice this morning she was unable to attend, but I'd like to understand what if any information you can share here as to why the Deputy Director and Legal Counsel are not here to fulfill their duties.

**Ellington:** We were just informed that they both resigned as of this morning.

## **VII. INTRODUCTION AND WELCOME TO VISITORS AND GUESTS**

## **VIII. OKLAHOMA VETERANS COMMISSION**

### **A. DISCUSSION OF AND POSSIBLE ACTION REGARDING APPROVAL OF MEETING MINUTES OF THE NOVEMBER 18, 2022 OKLAHOMA VETERANS COMMISSION MEETING**

#### **1. Action**

**Ellington:** So, what I'll need now is a Motion and a Second to approve the November 18, 2022, minutes.

**Allen?:** Mr. Chairman, I haven't seen the minutes and I don't see them in our, in our packet.

**Ellington:** I haven't seen them either.

**Allen:** So, I would move to table those minutes until the February 10th regularly scheduled meeting.

**Ellington:** Do we get a Second?

**Martin:** I Second that Motion

**Ellington:** Motion passes. We will table that, and we will approve the minutes at the next meeting.

**Allen?:** Mr. Chairman, Secretary Nash has arrived. I'm not sure if he's aware of what you just shared with us.

**Ellington:** To update the Secretary of Veterans and Military Affairs. ODVA Deputy Director Sarah Lane and Chief Counsel for ODVA both resigned.

**Unknown Commissioner:** *(Inaudible)*

**Unknown Commissioner:** That's for sure.

**Ellington:** So, I'll need a clerk, will you make a roll call please?

**Clerk:** Commissioner Allen?

**Allen:** Present. Oh, excuse me, for?

**Clerk:** To the table the minutes.

**Allen:** Aye

**Clerk:** Commissioner Ellington?

**Ellington:** Aye

**Clerk:** Commissioner Martin?

**Martin:** Aye

**Clerk:** Commissioner Offel?

**Offel:** Aye

**Clerk:** Commissioner Orr?

**Orr:** Aye

**Clerk:** Commissioner Perry?

**Perry:** Aye

**Cleric** Commissioner Sweeney?

**Sweeney:** Aye

**Clerk:** Seven Ayes zero nays.

**Ellington:** The Motion passes.

**B. DISCUSSION AND POSSIBLE ACTION REGARDING ELECTION OF OFFICERS.**

**1. Action**

**Ellington:** Next item **B.** Discussion of possible action regarding the election of officers. I will need a motion and a second for the empty position of Chairman.

**Offel:** I make a Motion to nominate Commissioner Robert Allen as the Chairman of the ODVA commission.

**Sweeney:** I second that.

**Ellington:** We have a nomination. Thank you, Commissioner Offel. Thank you, Commissioner Sweeney. We have a Motion and a Second. Call for vote.

**Clerk:** Commissioner Allen?

**Allen:** Abstain

**Clerk:** Commissioner Ellington?

**Ellington:** Aye

**Clerk:** Commissioner Martin?

**Martin:** Aye

**Clerk:** Commissioner Offel?

**Offel:** Aye

**Clerk:** Commissioner Orr?

**Orr:** Aye

**Clerk:** Commissioner Perry?

**Perry:** Aye

**Clerk** Commissioner Sweeney?

**Sweeney:** Aye

**Ellington:** Motion passes. Chairman of the ODVA Board of Commissioners is now Commissioner Robert Allen.

**Allen:** Thank you Sid, and fellow Commissioners. Let me gather myself here. The next agenda item is...

**Gallery:** *(Inaudible)*

**Allen:** It's not in the agenda, and we are not taking Public Comments right now.

**C. DISCUSSION AND POSSIBLE ACTION REGARDING APPOINTMENT OF OUTSIDE COUNSEL TO SUPPORT VETERANS COMMISSION.**

1. Including an authorization for the Executive Committee to select counsel with the terms of engagement subject to the requirement of law.
2. Action.

**Allen:** The next agenda item is the discussion and possible action regarding appointment outside counsel to support the Veterans...

**Clerk:** Mr. Chairman?

**Allen:** Yes?

**Clerk:** The Vice Chairman and Secretary should follow that, Chairman vote.

**Allen:** Well, we have sitting Vice Chairman and Secretary right now.

**Clerk:** So, no need to...

**Allen:** No need to vote for those.

**Clerk:** Okay. Thank you.

**Allen:** The next agenda item is a discussion and possible action regarding the appointment of outside counsel to support the Veterans Commission. Over the last couple of weeks, the Oklahoma Veterans Commission has required legal counsel. Months ago, we were assured the existing counsel for the commission would be able to ethically represent both the Veterans Commission while simultaneously fulfilling her duties with the Oklahoma Department of Veterans Affairs. In October, the Commission as a public body was named the in a lawsuit. The Commission asked for the final draft answer to be delivered by Monday, October

24, giving the Commission enough time to review the pleading before filing responses. A draft response was received two days later, the day the response was due, leaving little to no time for the Commission to review and ask questions. The general counsel's explanation was that she was too busy handling another matter for ODVA. Two weeks ago, the past chairman of this commission cancelled a regularly scheduled meeting after having been relieved. the commission immediately attempted to reschedule this meeting. In this time of legal uncertainty, this Commission turned to its legal counsel asking for immediate assistance. An email was sent to Ms. Heaton on January 19th seeking legal counsel, the Commission received no response. A follow up email was sent the next day after she failed to respond by a specified deadline. No response was ever received. At this time, I believe the Commission feels it would be better represented by separate outside counsel. Do we have a motion to appoint outside counsel to support this Commission?

**Martin:** Mr. Chairman, I make that Motion, to let the Commission seek separate counsel.

**Sweeney:** I will second.

**Allen:** Do we have, do we have someone specific in mind?

**Ellington:** So, I've reached out when we didn't get a response, as acting Chair at the time I reached out to John O'Connor, the outgoing Attorney General. He has been kind enough to provide us counsel, and I would recommend that we moved forward with bringing John O'Connor, former Attorney General on board as the legal counsel for this Commission.

**Allen:** Do we have a Motion?

**Ellington:** I will make a Motion to hire John O'Connor as our legal counsel.

**Allen:** Second?

**Sweeney:** I will Second that.

**Allen:** Sweeney Seconds.

**Ellington:** Call for a vote?

**Clerk:** Yes. Commissioner Allen?

**Allen:** Aye

**Clerk:** Commissioner Ellington?



**Ellington:** Aye

**Cleric:** Commissioner Martin?

**Martin:** Aye

**Clerk:** Commissioner Offel?

**Offel:** Aye.

**Clerk:** Commissioner Orr?

**Orr:** Aye

**Clerk:** Commissioner Perry?

**Perry:** Aye

**Clerk:** Commissioner Sweeney?

**Sweeney:** Aye

**Clerk:** Seven ayes.

**Allen:** The Motion passes.

#### **D. VETERANS COMMISSION AND ITS OVERSIGHT ROLES AND RESPONSIBILITIES**

##### **1. Potential Guest Speakers**

**Allen:** The next agenda item is Veterans Commission and its oversight and roles and responsibilities. To the recently appointed Commissioners and anyone else who is here to hear this, we find it helpful to point out the duties and responsibilities of this Commission required by statute. Title 770, Section 1-3-2. The Oklahoma Veterans Commission is the controlling board of The Oklahoma Department of Veterans Affairs. The Oklahoma Veterans Centers and is responsible to the Governor for carrying out the laws enacted by the Oklahoma Legislature and for administering the veterans' program in Oklahoma. The Commission has the authority to appoint the necessary personnel to administer the program. The Oklahoma Veterans Commission has authorized and charged the Director with the responsibility of administering the program. The bottom line is that the Oklahoma Veterans Commission oversees the Oklahoma Department of Veterans Affairs and not the other way around.

**Ellington:** Point of order. Mr. Chairman, I would also like to point out that we are all volunteers and receive zero monetary compensation for this service to our veterans' community.

**E. DISCUSSION AND POSSIBLE ACTION REGARDING CURRENT SUB-COMMITTEES**

1. Review and Discussion of Current Committees, Committee Appointments, and Needs for New Committees or Appointments
  - a. Action

**Allen:** The next, excuse me, the next item on the agenda is the discussion and possible action regarding current sub-committees which we will defer to the regularly scheduled meeting on February 10th.

**IX. OKLAHOMA SECRETARY OF VETERANS AFFAIRS AND MILITARY  
A. JOHN NASH, CABINET SECRETARY TO GOVERNOR STITT,  
REPORT WITH POSSIBLE DISCUSSION ON THE FOLLOWING:**

1. **OKLAHOMA STATE GOVERNMENT MODERNIZATION AND OPTIMIZATION PROCESS AND ODVA**
  - a. Potential Guest Speakers
2. **OKLAHOMA STATE GOVERNMENT ORGANIZATION AND MANAGEMENT SYSTEMS AND ODVA**
  - a. Potential Guest Speakers
3. **ODVA EXPENDITURE AND BUDGET MANAGEMENT REVIEW**
  - a. Potential Guest Speakers
4. **ODVA CYBER & SECURITY MANAGEMENT: OMES IT SUPPORT**
  - a. Potential Guest Speakers

**Allen:** The next agenda item is the Oklahoma Secretary of Veterans Affairs Secretary John Nash, which I believe we're also going to defer until the next regularly scheduled meeting on February 10<sup>th</sup>?

**Secretary Nash:** Yes

**Allen:** Thank you, Mr. Secretary

**X. OKLAHOMA DEPARTMENT OF VETERANS AFFAIRS**

**Allen:** The next agenda item is Kim Heaton, general counsel reports with discussion and possible, and possible action, which will be stricken from the

agenda. Next agenda item, Nisha Young, construction report with further discussion and action on the following, declaration of emergency relating to Sallisaw, consideration, and possible action to approve and execute a declaration of Emergency associated with the unexpected expenses incurred during construction of the Sallisaw Veterans Center.

**Sweeney:** Chairman Alan, if we could not strike that previous agenda item and instead enter into Executive Session to discuss with, the Sallisaw project. That was what that briefing was about.

**Allen:** Well, that, that was for potential litigation. Right? And this, I believe we want to hear in open forum, the presentation from Nisha Young on the Sallisaw project.

**Sweeney:** There may be components that we need to have an executive session.

**A. KIM HEATON, GENERAL COUNSEL, REPORT WITH DISCUSSION AND POSSIBLE ACTION ON THE FOLLOWING**

1. Proposed Executive Session pursuant to Title 25 O.S. §307(B)(4) for confidential communications between the Commission and its' Attorney concerning a pending investigation, claim, or action if the Commission, with the advice of its Attorney, determines that disclosure will seriously impair the ability of the public body to process the claim or conduct a pending investigation, litigation, or proceeding in the public interest.
2. Action to enter into Executive Session

**Allen:** Okay. Okay. Will you make a Motion to enter into Executive Session with a Second.

**Sweeney:** I did

**Allen:** Second?

**Offel:** Second

**Clerk:** Commissioner Allen?

**Allen:** Aye

**Clerk:** Commissioner Ellington?

**Ellington:** Aye

**Clerk:** Commissioner Martin?

**Martin:** Aye

**Clerk:** Commissioner Offel?

**Offel:** Aye

**Clerk:** Commissioner Orr?

**Orr:** Aye

**Clerk:** Commissioner Perry?

**Perry:** Aye

**Clerk:** Commissioner Sweeney?

**Sweeney:** Aye

**Clerk:** Seven ayes.

**Allen:** Okay, the Motion passes. We're gonna' go ahead and enter into Executive Session.

**Ellington:** Mr. Chairman, I also request that Secretary Nash remain in here for Executive Session and we should...

**Allen:** Okay, yeah. Approved. The other members of the public, we will ask you to exit the room while we have Executive Session, and we will invite you back into the room when we're done.

**Ellington:** Legislators ... *(Inaudible)*

**Allen:** Legislators are allowed to stay.

**Clerk:** Commissioner Allen? Do you want me to stay, or do you want me to go?

**Allen:** Do you have a preference?

**Clerk:** I may know a little bit if something comes up. Nisha's got it but...

**Ellington:** I'll take notes in Executive Session

**Unknown Commissioner:** Fair enough.

*The Commission Entered Executive Session at 10:20 am according to Clerk notes provided to the transcriber. The Commission entered into Executive Session 19 minutes into the recording provided*

3. Report of Potential and Pending Litigation
4. Action to return to Open Session

**Allen:** Need a motion in a second to return to open meeting.

**Sweeney:** Make a motion we return back to the meeting.

**Ellington:** I'll second that.

**Allen:** Clerk, call the roll.

**Clerk:** Commissioner Allen?

**Allen:** Aye

**Clerk:** Commissioner Ellington?

**Ellington:** Aye

**Clerk:** Commissioner Martin?

**Martin:** Aye

**Clerk:** Commissioner Offel?

**Offel:** Aye

**Clerk:** Commissioner Orr?

**Orr:** Aye

**Clerk:** Commissioner Perry?

**Perry:** Aye

**Clerk:** Commissioner Sweeney?

**Sweeney:** Aye

**Clerk:** Seven ayes.

**Allen:** Okay, the motion passes.

*The Commission Returned to Open Meeting at 11:25 am according to Clerk notes provided to the transcriber.*

**Allen:** The next agenda item we have is Nisha Young, Construction Administrator report with possible discussion and action on the following: Declaration of emergency relating Sallisaw. Consideration and possible action to approve and execute a Declaration of Emergency associated with the unexpected expenses incurred during construction of the Sallisaw Veterans Center. Ms. Young?

**B. NISHA YOUNG, CONSTRUCTION ADMINISTRATOR, REPORT WITH POSSIBLE DISCUSSION AND ACTION ON THE FOLLOWING:**

1. Sallisaw Project Update

**Nisha Young:** So, to give you a project update for Sallisaw as it stands the project is 48% complete, the asphalt-based coat is complete on the site. All of the shingles roofs are completed on building 400, building 100 is 40% complete and building 200 and 300 are scheduled. All the HVAC units are on site. The top priority is protecting and closing the building by correcting the errors and omissions associated with the UL roof structure fire rated assembly. With cost escalation and previous delays, it is imperative that we quickly keep the rough order magnitude costs for the corrections as it currently stands and propose declaration of emergency to allow this project to stay on course for the project completion date of April 2024.

**Allen:** Okay, I will put this up for discussion. Do you have any questions.

**Sweeney:** Nisha, what was the original budgeted amount for this project and how was it funded?

**Nisha Young:** The original budget prior to... the original budget amount for this project was \$90 million. It was funded by the US Department of Veterans Affairs state home construction grant program at 65% and with us paying 35%.

**Sweeney:** Quick follow up to that. Was that, was that \$91 million original budget, did they reduce that or anything like that for, for starting our actual start date?

**Nisha Young:** The \$90 million was reduced to \$77 million.

**Allen:** So, the go ahead budget was \$77 million

**Nisha Young:** Yes

**Allen:** So, \$90 million, and then the federal government pays 65% of that,

**Nisha Young:** yes.

**Allen:** Where does it stand now?

**Nisha Young:** \$77 million plus, the rough order of magnitude costs for correcting the errors and omissions.

**Martin or Offel?:** How much has been spent so far of the \$77 million?

**Nisha Young:** \$35 million?

**Martin or Offel?:** \$35 million?

**Nisha:** Roughly. Approximately \$35 million has been spent.

**Allen:** When was the VA first notified about the need for this extra expenditure?

**Nisha Young:** September.

**Allen:** September of 2022?

**Nisha Young:** Yes.

**Allen:** And at that time, what was the cost that was proposed to remedy the situation?

**Nisha Young:** At that time, it was roughly \$13 million

**Allen:** \$13 million? So, in September, had there been an opportunity for action, the budget would have been \$8 million less than what's being proposed now. Is that correct?

**Nisha Young:** That's correct.

**Martin or Offel?:** Just so I'm clear, in September you provided this information to the ODVA that there was a \$13 million change order needed, and then four months later, we're now at \$21 million, \$8 million in additional costs.

Nisha Young: In September the number was provided, and a firm number was requested working with Flintco and their subs to get a firm number, in the process of getting that information the cost escalated, yes.

**Martin or Offel?:** If my math is correct, that's roughly \$53,000 a day?

**John Nash:** So, please, Mr. Chairman, if I may?

**Allen:** Please.

**John Nash:** So, in, in September, there was, Flintco, let me make sure I get this right... So Flintco, in September 2022, provided information that in order to correct the deficiencies and the material deficiencies around the life, life safety codes (Inaudible) would be an additional \$13 million.

**Nisha Young:** Correct.

**John Nash:** Being so that. .. that would have brought it at the time to \$90 million, right, and your original budget was \$90 or \$91 million, and it was trimmed to \$77 million. Is there any correlation between that being that \$13 million being trimmed initially, and a \$13 million that was due, or that was identified in September of 22?

**Nisha Young:** No.

**John Nash:** Okay, so then in September of 22, Flintco provided those numbers. So, I can allow you guys to talk later, but in... in September, they cost us \$13 million, today is \$21 million... And you, I'm assuming, that you informed your leadership at ODVA in September that it was going to take \$13 million to correct the deficiency.

**Nisha Young:** At that time, yes.

**John Nash:** And nothing has been done until today so we're at \$21 million, is that right? So that's another \$8 million, that will then have to be appropriated by the state from taxpayers because of the delay from September.

**Nisha Young:** (Inaudible)

**Offel:** Do you know approximately in September when that information was provided to the ODVA?

**Nisha Young:** I would say middle of September

**Offel:** There was a there was a meeting on September 23, of 2022, and to my recollection, that was not on the agenda. We can certainly look, nor have we received any information regarding this matter.

**Allen:** This is the first, the first I've heard anything about it today.



**Offel:** Was there additional information that you had been working with, with the council and former deputy director to provide us with today?

**Nisha Young:** During the month of September, during that time, we had a meeting scheduled with the fire marshal's office. We wanted to get his approval on the corrected drawings prior to pushing that out farther, because we needed his approval to determine those costs.

**Ellington:** And by pushing that out further means making that information available to the commission.

**Nisha Young:** Well until we got the final number.

**Ellington:** Until we got the firm number.

**John Nash:** There was an approximate number.

**Nisha Young:** There was.

**John Nash:** So, you had a ballpark, something?

**Nisha Young:** Absolutely.

**John Nash:** It was up to \$13 million in September.

**Nisha Young:** That was the ballpark. And that was what that number was at that time.

**Offel:** Was there an understanding at that time that, that the costs were rising at 50,000 a day of additional cost to this project?

**Nisha Young:** There was knowledge that the project would increase, but not but the amount per day.

**Sweeney:** I'm gonna ask this gently. The question that comes to my mind is when this, this letter that we have is dated January 5th. Approximately, when did you inform the executive staff of what the actual number was going to be?

**Nisha Young:** That would have been in November. We had it in November.

**Sweeney:** Okay.

**Allen:** There's, there's additional information that is going to be provided that we don't have, correct?

**Nisha Young:** That would be...

**Allen:** This right here?

**Nisha Young:** Yes.

**Allen:** Is this all the information that you have? On this paper right now. Is there anybody else that can do anything else?

**John Nash:** Mr. Chairman, I have a few more questions. I don't know if your job is to close. But this, Nisha this letter that you presented today dated Thursday, January 5th, and Director Kintsel talks about (Inaudible) So again, that's four months after September. So it's \$21 million today, it was \$13 million then, and it was dated January 5th. I walked in a little bit early, Where is Director Kintsel? I was a little bit late. I'm sorry, where is, where is Director Kintsel?

**Allen:** We were told on Tuesday that he was on TDY orders with the Air, with the Guard.

**Ellington:** Yeah, that he'd been, he'd been placed on orders, and I was notified on the 24th of January at 0846 in the morning, I requested a copy those orders on the 24th (Inaudible) so approximately 93 minutes later, I never received a response. So, the next bit of information we've had was the Deputy Director, Sarah Lane, informed us that he was in Hawaii on TDY.

**John Nash:** When, when did you receive that?

**Ellington:** We had our...

**Unknown Commissioner:** Win... yesterday?

**Unknown Commissioner:** Wednesday. Yeah, yesterday.

**Ellington:** No no no, Wednesday evening at about 1600.

**John Nash:** So, this commission sits in oversight of the Director, is that right?

**Allen:** Right.

**John Nash:** Has the Director provided you with copies of those orders?

**Allen:** We haven't heard anything.

**John Nash:** So, this is the first time any of you have seen this letter?

**Ellington:** I've never seen it in the mail or email form. And this was the first time 22 days later that we're seeing this.

**John Nash:** Now, I some people in the public here that probably heard me say this before, it's still true. There's no question that I'm the least intelligent person in this room. On the fifth of January, I'm just gonna' do some quick math... the fifth of January this week, four months later, we are 22 days after that. Right? That is one... that is over \$1 million in cost increases since January. And that's going to have to be appropriated from taxpayer dollars because we're delayed another 22 days?

**Unknown Commissioner:** Correct. There was, there was a regularly scheduled meeting for January 10.

**Unknown Commissioner:** 13th.

**Unknown Commissioner:** January 13th.

**John Nash:** And why didn't the 13th of January, why did that meeting not go through?

**Ellington:** We received a notification that it had been canceled by Chairman Jerry Ball.

**John Nash:** Jerry Ball canceled the meeting?

**Ellington:** Jerry Ball canceled the meeting on the 12th.

**John Nash:** On the 12th?

**Ellington:** That's when we received notice from Shawn Kirkland.

**John Nash:** So, I'm sorry to interrupt. I have an appointment order today that says on January 11th, 2023, Greg Malin was appointed and replacing Jerry Ball. How did Jerry Ball, who was not on the Commission on January 12th cancel a meeting?

*(Inaudible chatte1j)*

**Shawn Kirkland:** I was advised to send an email that the meeting was canceled.

**Multiple Commissioners:** Who advised you... by who?

**Shawn Kirkland:** The Director advised me.

**John Nash:** The Director?

**Unknown Commissioner:** Deputy Director or Executive Director?

**Shawn Kirkland:** The Direc... The Executive Director.

**Ellington:** Advised you to send a notice out to the Commission on January 12th, that the meeting was cancelled by the Chairman ...

**Shawn Kirkland:** Commissioner Jerry Ball

**John Nash:** Who was terminated on the 11th of January.

**Shawn Kirkland:** He advised me that Jerry Ball had canceled the meeting and just to notify the Commission.

**John Nash:** So, 16 days ago this Commission meeting was cancelled by a former commissioner, and that delay is going to cost us \$848,000 of taxpayer dollars.

**Allen:** As that email was received, I believe that Commissioner Ellington, Vice Chair, Acting Chairman, immediately tried to reschedule this meeting for today to make sure that this happened. We did not get a response from the Executive Director for seven days.

**John Nash:** what about...

**Ellington:** Nine days, until January 19th.

**John Nash:** And what about the general counsel? (Inaudible)

**Allen:** Well, I say, I stated previously in our Agenda that there were multiple attempts to contact general counsel for ODVA and for the Commission, all of which went un-responded to.

**John Nash:** So, what I, what I'm hearing from this Commission is that because of these delays, we're going to end up wasting \$21 million of taxpayer money. Money that otherwise could go for the actual care of actual veterans in the State. Is that what I'm hearing from this commission?

**Ellington:** In addition to our inability to conduct business on the 13th, as regularly scheduled and supportive of the 300,000 veterans in the State of Oklahoma to whom we serve.

**John Nash:** What's ... what's \$21 million divided by 300,000? That's a lot of money per veteran. money that was wasted in this delay because the meeting was canceled by someone who didn't have the authority to cancel, among other things. Is that right? So, when I saw this agenda, I did a quick Google search around the Sallisaw decision. I actually have an article here. (Inaudible) So, among the articles that came up, an article from December 9th, 2018, in which the Commission at that time led by former Chairman Larry Van Schuyver, selected Sallisaw over Muskogee, on a seven to one vote. That was following discussions held an Executive Session at a public session, an article talks, for me this morning, that Muskogee was actually the meeting scorecard, leading on the scorecard in 2018, but somehow, Sallisaw was chosen over the leading score card, do you know anything about that? I don't even know if you're in this role.

**Nisha Young:** No, I was not.

**John Nash:** So, let me connect, let me try to connect some dots for the Commission. So, in 2018, at some point in 2018, there was a decision made to seek a new location for a new veterans home. There was a search committee, says this article, that used a rep01i card, which I'm not steeped in these rules, but I think there's processes through state law that guide such searches? And that Commission, and I, and I believe there, there's a member here today, as a former member of the Commission that was serving at that time, chose a location that did not comport with the results

in the report card process. And now, five years later, \$21 million over cost, we're in this situation. Is that, is that what this Commission is informing me of today?

*::Silence::*

**John Nash:** Nisha, can I ask another question? I know that right now there's a, there's a renovation project in Sulphur? What is the total cost of that renovation for the cognitive care unit?

**Nisha Young:** (Inaudible)

**John Nash:** \$8 million?

**Nisha Young:** Yes.

**John Nash:** So, for the delay, since September, we could have funded that kind of care. And with \$3 million more, we could have three cognitive care centers for veterans in the state of Oklahoma. And what we... what we're going to spend, or what the taxpayers are going to ask to fund, I'm not looking at the initiatives that you're responsible... So, what this Commission is expecting the public to understand, and taxpayers to foot the bill for \$21 million, if you decided today to act, and I don't think you can, because you don't even have counsel. So, if today you were able to act, it would only cost the taxpayer \$21 million. Yet throw in another \$3 million you could build three cognitive care units around the state. Mr. Kirkland, could we use three cognitive care units around the state to serve Oklahoma veterans?

**Shawn Kirkland:** Yeah. There's never enough.

**Unknown Commissioner:** But I thought the role and the goal of this organizations was taking care of our veterans. How is this taking care of our veterans? This delay this over one? A special meeting will have to be called but there's protocols for that. And I would imagine by the time we get one that'll cost us 150, some thousand more.

**Martin:** It doesn't make any sense.

**Allen:** We're not going to be able... I mean we can table the vote to act without, without counsel, we're not going to be able to take action to approve the declaration of emergency today. It will require either an emergency meeting or special meeting, called next week.

**Ellington:** Point of order. Mr. Chairman, we do have counsel in John O'Connor. So, I would recommend that we, as a board, consider an emergency meeting.

**Allen:** And we don't have counsel present.

**Ellington:** We don't have counsel present.

**Unknown Commissioner:** So, if I understand you correctly, Commissioner Ellington, you want to do an emergency session Monday afternoon?

**Ellington:** I recommend that we consider, you know, what are the thoughts?

**Allen:** Well, I mean, one is that we need to make sure that that we put up the proper notice, I mean, emergency notice, to have an emergency meeting on Monday. And an emergency meeting, we will have to look at the rules, as far as...

**Shawn Kirkland:** I've got to notify the Secretary of State 48 hours in advance.

**Unknown Commissioner:** For emergencies?

**Unknown Commissioner:** That's for a special meeting.

**Shawn Kirkland:** Special, yes, that's right.

**Allen:** I think it's a reasonable, I think it's a reasonable notice for an emergency meeting. We can talk about it, but I think Monday is what we will shoot for. And this can be the sole agenda item for that emergency.

**Martin:** You might have seen it from the notice we received from director cancel that his TDY ends on the 29th and he should be here on Monday as well.

**Sweeney:** And that only cost about \$150,000. Expensive vacation.

2. Declaration of Emergency relating to Sallisaw

Consideration and possible action to approve and execute a Declaration of Emergency associated with the unexpected expenses incurred during construction of the Sallisaw Veterans Center.

3. Action.

**Allen:** So, do we have a motion to table the action regarding this agenda item?

**Sweeney:** I'll make a motion that we table this agenda until the emergency meeting can be convened on Monday, what time?

**Allen:** Afternoon?

**Sweeney:** Afternoon

**Allen:** 1500?.

**Sweeney:** Yeah, 1500 will be good.

**Allen:** Got a motion to second?

**Ellington:** I'll second.

**Allen:** Okay, call for call vote.

**Clerk:** Commissioner Allen?

**Allen:** Aye

**Clerk:** Commissioner Ellington?

**Ellington:** Aye

**Clerk:** Commissioner Martin?

**Martin:** Aye

**Clerk:** Commissioner Offel?

**Offel:** Aye

**Clerk:** Commissioner Orr?

**Orr:** Aye

**Clerk:** Commissioner Perry?

**Perry:** Aye

**Clerk:** Commissioner Sweeney?

**Sweeney:** Aye

**Clerk:** Seven ayes.

**Allen:** Motion passes.

**Ellington:** So just to make sure we're clear, you will file all the necessary paperwork?

**Shawn Kirkland:** Yes. Can we visit after to nail that down? Okay?

**Allen:** Next on the agenda is new business, new business meaning any matters that are not known about which could not have been reasonably foreseen prior to the time of this posting, 24 hours prior to this meeting. Is there any new business?

## **XI. NEW BUSINESS**

Pursuant to 25 O.S. § 311, "New Business" shall mean any matter not known about or which could not have been reasonably foreseen prior to the time of posting (24 hours prior to the meeting).

**Offel:** Mr. Chairman, new business item, request that Shawn (Kirkland) advise whoever is responsible within the agency to ensure the website is updated to reflect the current commission, including photos, as well as update the recent resignations of Deputy Director and legal counsel?

**Allen:** Okay.

**Offel:** I checked this morning and it's not, well, for the Commissioners. I wasn't aware of this until today. But yeah, we should keep that updated.

**Shawn Kirkland:** We'll reach out for photos of whoever we don't have, too.

**Sweeney:** Yeah. So in light of, you know, kind of the monetary issues that had been created through inaction or lack of communication, I would ask a quick recess, and maybe talk about potential concerns that I have regarding that. Is that something that we can do?

**Allen:** Anything that we, any business we have to conduct, particularly when a quorum is present needs to be at least added to the agenda and...

**Sweeney:** I'll lay out my concerns then. Director Kintsel, through his inaction or inability to communicate with the Commission, has cost the taxpayers of Oklahoma somewhere in the neighborhood of \$8 million dollars over the last few months. Coming to ask a direct question to Commissioner Offel, and just any... your experience in the private sector, what is typically required from a governing body.

**Offel:** This a serious issue obviously, and it would warrant evaluation of that individual's performance.

**Sweeney:** Does anyone else have any discussion on that topic?

**Allen:** Just additional information on if that number is accurate as of today, prices can change. But other than that, if it truly was \$8 million, I absolutely agree with Commissioner Offel.

**Unknown Commissioner:** And given the current delays, the continued delays, a lack of communication, (*Inaudible*) information, that cost is going to go up until the decision is made.

**Ellington:** I think we should consider for the emergency meeting on Monday that our friends from Flintco be present to answer any questions.

**Unknown Commissioner:** If we can work that out.



**Martin:** We need to do something. I just can't get over the fact that we can build three of those units that had been wasted. Opportunity gone awry. There was no bang for the dollar. There was no fiduciary responsibility to the veteran community of Oklahoma.

**Unknown Commissioner:** That's unsatisfactory. It's just purely unsatisfactory. One is good three would be much better.

**Ellington:** And to echo homes director, Shawn Kirkland's comment, there are never enough when it comes to the cognitive units.

**Sweeney:** Would we be open to adding one more agenda item to the emergency meeting?

**Allen:** What do you propose?

**Sweeney:** I would propose an Executive Session to review Director Kintsel's performance during this, during this period of time.

**Allen:** Anyone have any and issues with that? We can put that on the agenda.

**Martin:** Will our new Counsel be here?

**Ellington:** I've just texted him; we'll see. He hasn't responded yet, but I think so.

**Allen:** Any other, any other agenda items for the new agenda for the meeting to be held on Monday, we need to have that as soon as possible.

**John Nash:** Mr. Chairman, are you talking about new business or agenda items?

**Allen:** The new business is what, is what Mr. Sweeney brought up. So, under that topic, we're bringing up the new agenda items. Normally, those agenda items need to be an emergency in an emergency meeting.

**John Nash:** If I might suggest one thing, and normally, not normally a person serving in my office or my capacity has been invited to add agenda items, so I'd like to mention one item for that. For your consideration on Monday, which is that since earlier this year, I believe in September, Director Kintsel has renounced, Shawn might be able to pull up the minutes on this year for September, the Executive Director informed the Commission that he would not comply with the Executive Order that required him and the agency to seek Cabinet Secretary approval for expenditures over \$25,000. The agency, and Director Kintsel to date still has not complied with that Executive Order. I know we met on August 5th of this year. I don't think that, I don't think that these issues in Sallisaw began on August 6th. I think they probably began some months ago. On August 5th, there was a change order discussed. Or there was a change order proposed from Sallisaw. I mean, out of \$1.4 million, that never came to my office, it was never discussed. I

think that that change was probably directly related to this. So, the point I'm making is an emergency meeting, I submit that this Commission should consider the refusal of this agency to comply with State Executive Orders that all other State Agencies are applied or required to follow. I don't know why this agency would be any different. We are not at the Supreme Court. This agency doesn't dictate its own rules or regulations and sit independent in those decisions.

**Allen:** So, we'll add to the agenda for the meeting on Monday discussion and possible action regarding future compliance with the Governor's executive order.

**John Nash:** If there had been oversight at all, perhaps we're not out three cognitive care centers.

**Sweeney:** I think that's the main message here. (Inaudible).

**Ellington:** Point of Order in for the record, please. Mr. Chairman, as I recall it we were advised as a board by both Director Kintsel and legal counsel Kim Heaton, the Executive Order was unlawful, and therefore, Director Kintsel was going to seek approval through OMES, the way that had always been done before the Executive Order. Does anybody else remember that conversation differently?

**Sweeney:** I believe that that was the nature of the conversation if not the exact wording. That was a rather contentious uh...

**Ellington:** It was. It was.

**Sweeney:** It seemed like Director Kintsel acted previously by five or six days before he had received an actual legal opinion from Kim Heaton that he was not going to comply regardless. It was almost like a manufactured excuse at that point.

**John Nash:** Mr. Chairman, I have one more item. Who's in charge of the agency? So if there is an emergency at a care home, or there is a suicide, or if this building catches on fire... when major decisions have to be made - without Sarah Lane, without Director Kintsel presence today, and without counsel, who's in charge of ODVA right now?

**Allen:** Shawn?

**Shawn Kirkland:** I believe I'm next on the Org. chart

**John Nash:** Is there some official? I don't know what your SOPs are there. So, does the rest of the agency today know that if a serious matter arises, they should contact you?

**Shawn Kirkland:** If the Commission says so, that's what I would put out through the agency.

Ellington: I think they'll know as soon as this meeting is over, Shawn.

Sweeney: That wasn't the question. The question was, what is the standard operating procedure for ODVA in lieu of a situation like this one? What does your SOP say? Do you have an SOP that deals with this matter?

**Shawn Kirkland:** I can get the HR Director in here, I mean, I can't say word for word.

**Sweeney:** You don't know if there is an SOP in place for situations like this right now?

**Shawn Kirkland:** I don't know right off the top of my head.

**Sweeney:** So, if this was a ship, the Captain and the XO, and the navigator were shot and you're seaman Timmy, do you run up on the bridge and take command of the ship? I guess what I'm asking is... there has to be procedures. Otherwise, you could possibly lose \$56,000.

**Allen:** Director Kintsel returns on Sunday?

**Ellington:** I believe that's what the email says.

**John Nash:** What time does the agency close today Mr. Kirkland?

**Shawn Kirkland:** 4:30pm

**John Nash:** What I recommend is, I have no power of this body, but what I recommend to you as a professional is that you meet with the Director of HR, if she could, he or she could come here today and discuss that, discuss it with the Commission, and then send out a communication to the entire organization that if something should happen in the next six hours...

**Unknown Commissioner:** As well as over the weekend by the way, as we continue to care for veterans.

**John Nash:** Right, until Director Kintsel returns, my advice to you would be to stay in touch with the Chairman, the Vice Chair, and the rest of the committee in case you need help because you don't have counsel. Correct?

**Shawn Kirkland:** Right.

**John Nash:** I don't know that you and I have ever been, I think we have exchanged emails in the past, but the Director has forbidden me from discussing with some, or contacting any ODVA employee, but until he gets back, if you need help, you can email me. I will give you my personal cell before I leave here, and if there's

anything you need for the next 48 hours, then you call me. Or, I hope that you'll call me.

**Shawn Kirkland:** Yeah. I appreciate that.

**Allen:** Thank you Mr. Secretary. Okay. Your next agenda item is carryover topics deferred to a future agenda. One of those being ODVA response to Commission regarding OMES CIO allegation letter which will be deferred to the regularly scheduled meeting on February 10<sup>th</sup>

Sweeney: Is that being shared and discussed openly, do we need to...

Ellington: I believe we all have a copy.

Sweeney: I'm aware of that. It's not public though, is it allowed to be?

Ellington: we will check with our counsel.

## **XII. CARRYOVER TOPICS DEFERRED TO A FUTURE AGENDA**

### **A. ODVA Response to Commission regarding OMES CIO Allegation Letter**

**Allen:** Next agenda item, Submission, and discussion of possible agenda items by the Oklahoma Veterans Commission for the next scheduled meeting.

## **XIII. SUBMISSION AND DISCUSSION OF POSSIBLE AGENDA ITEMS BY THE OKLAHOMA VETERANS COMMISSION FOR THE NEXT SCHEDULED MEETING**

### **A. Commission Chair sets deadline for agenda item submissions**

**Allen:** I would like agenda items to be, for the next regularly scheduled meeting, let's have the agenda items submitted no later than 1700 on Feb 6<sup>th</sup>, that Monday prior to so we can get a fully formed agenda out and posted. That should give you enough time, correct?

**Shawn Kirkland:** That should work.

**Sweeney:** The location of the next meeting?

**Allen:** That's the next, that's the next agenda item. So, we're tracking February 6<sup>th</sup> 1700 for the agenda items to be covered at the next regularly scheduled meeting February 10<sup>th</sup>. Next agenda item, discussion and possible action regarding the next regularly scheduled meeting date to include travel.

## **XIV. DISCUSSION AND POSSIBLE ACTION REGARDING THE NEXT REGULARLY SCHEDULED MEETING DATE TO INCLUDE TRAVEL ARRANGEMENTS**

A. Next Regularly Scheduled Meeting:  
February 10, 2023, 10:00AM  
Ardmore Veterans Home  
1015 S. Commerce  
Ardmore, OK 73401  
1. Action

**Allen:** Currently the next regularly scheduled meeting is February 10<sup>th</sup> 10:00 am at the Ardmore Veterans Home. Seems to me that we've got business we need to take care of locally before we start traveling again. Do we have a Motion to...

**Ellington:** I make a Motion to move that meeting and hold it here in Oklahoma City.

**Sweeney:** Commissioner Sweeney Seconds.

**Shawn Kirkland:** Same time? Same date?

**Ellington:** Same time, same date.

**Allen:** And can you call the roll?

**Clerk:** Commissioner Allen?

**Allen:** Aye

**Clerk:** Commissioner Ellington?

**Ellington:** Aye

**Clerk:** Commissioner Martin?

**Martin:** Aye

**Clerk:** Commissioner Offel?

**Offel:** Aye

**Clerk:** Commissioner Orr?

**Orr:** Aye

**Clerk:** Commissioner Perry?

**Perry:** Aye

**Clerk:** Commissioner Sweeney?

**Sweeney:** Aye

**Clerk:** Seven ayes.

**Ellington:** So just to reiterate that's 1000 hours February 10th, here

**Allen:** Motion passes. The last item in the agenda is, is adjournment. Do we have a, I'll need a Motion and a Second to adjourn.

**Unknown Commissioner:** One question Mr. Chairman, other than the information that Nisha just provided, is there additional information we need prior to the Emergency Meeting or that you will be bringing to the Emergency Meeting for that discussion?

**Nisha Young:** There are some additional items I could bring to back up

**Unknown Commissioner:** Any additional information that you could provide in as advance as possible to the Commission in preparation for that meeting would be really helpful. If you could send it out via email.

**Nisha Young:** Shawn, do we have everyone's email?

**Shawn Kirkland:** I think so. I think everyone has been added. I've at least got you guys who can get it out.

## **XV. ADJOURNMENT**

### **A. Chairman**

#### **1. Action**

**Allen:** Yes, we can get it to everyone. Okay, I need a Motion and Second to adjourn.

**Ellington:** I Motion that we adjourn.

**Sweeney:** I Second.

**Allen:** The roll.

**Kirkland:** We don't have to call the roll.

**Allen:** All right. We are adjourned.

*The meeting adjourned at 12:00 pm according to Clerk notes provided to the transcriber.*