

The RI CDHH Commissioner approved the minutes for the 5/19/2010 meeting on September 22, 2010.

Rhode Island Commission on the Deaf and Hard of Hearing

May 19, 2010

MEETING MINUTES

Commissioners Attending: Travis Zellner, Ed Rawlings, Andrew Knight, Christine "Tina" Thompson, James Compton, James Simon, and Mary Wambach,

Commissioner(s) not Attending: Sean Gill, John Dunsmore, Lisa Sack, and Jordan Sack

Staff Attending: Steve Florio (Executive Director)

Public Attending: None

Communication Accommodations:

Interpreters: Elizabeth Nadolski and Carol Fay

CART service: Jennifer Moore

Location: Conference Room A at the Department of Administration building (One Capitol Hill) in Providence, RI

The meeting was called to order by Chair Travis Zellner at 6:05 pm.

CHAIR' REPORT:

- 1) Chair Travis expressed his disappointment that not all commissioners were able to come and learn more about the Open Meeting Act. He encouraged that all commissioners who are here to engage questions if they have any. Then he asked Steve Florio to introduce the speaker from the Rhode Island Office of Attorney General.

PROCEEDING:

- 1) Steve Florio introduced Laura Marasco to the RICDHH Commissioners and noted that he has had difficult time to schedule a speaker from the RI Office of Attorney General in the past, therefore, he was thrilled to have her to come and to present about the Open Meeting Act and Access to Public Records.

Laura Marasco:

- 1) She mentioned that more in-depth presentation on Open Meeting Act will be held on July 30th at Roger Williams Law School. If anyone is interested, they should feel free to contact her to register.
- 2) Please see the powerpoint slides, Open Government 101, attached created by the Rhode Island Office of Attorney General. Laura Marasco walked and discussed through the powerpoint slides with the Commissioners.
- 3) *Questions/Answers between Laura Marasco and the Commissioners*, (excerpt from the transcript produced by the Allied Reporters.):

1. **Question:** Travis asked, "And we go through the open meeting act and you cannot vote during closed session. And I was told that during the closed session we can have a discussion. And the purpose is to make sure that we understand each other and that we can vote that there's a consensus and then we can announce it after the meeting is re-opened. Is that right?....We discuss the matter and if everyone is in agreement, we have a consensus. And then we say, we need to make a formal proposal after the meeting is opened again. So we open the meeting. And then someone makes a motion. It's basically -- we are trying to get an idea of whether or not we are in agreement before we open the meeting and make the announcement of the results."

1. **Answer:** Laura responded, "It's kind of a complicated question. We at the department of Attorney General do not like the word consensus. We feel that it is frequently just trying to get around the vote provision. But if the question is something like, does everybody have enough information to make their decision, then that's not really a vote, I think.....the only one that you would need to be careful of is if you are going in there into the person Nell one you shouldn't be coming to consensus unless by consensus you just immediate do we have enough information to make our vote. Not have we decided how we are going to vote. Does that answer your question? All right."

2. **Question:** Tina asked, "Closed session. We have elections of officers once a year, okay. And so a person applies to be on the ballot and what we do is we have a closed session to discuss the candidates for the officers position. Are you saying that person who is on the ballot, he or she can request to have that to be an open meeting?"

2. **Answer:** Laura responded, "Right. You should be providing them notice before the meeting that is they are going to be discussed and giving them the opportunity to have it in open session, if they want instead. And then making sure that gets recorded in the minutes of the meeting too".

3. Question: Tina asked, "Which talked about subcommittee that the public notice has to be posted for subcommittees. We have a lot of subcommittees here, okay. Now, if the subcommittee is going to do like a working group to -- I want to use an example of working on changing our bylaws, for example, okay. So, the work group, is that subjected to public notice?"

3. Answer: Laura responded, "It is. It should be, yeah."

4. Question: Ed asked, "Our majority is five. And if we have a working session of only four where we would not have a majority, then I think we clarified that you would not need to post, if you maintained it as four."

4. Answer: Laura responded, "It's a little more complicated than that because if it's considered a subcommittee. The subcommittee doesn't matter how many members are in it. Two members, you can have members of the public that aren't part of your public body on that. The composition can be really varied. But if they are getting together to discuss things that you have jurisdiction over they should be following the open meetings act."

4. Follow-Up: Ed asked, "Even though it's a subcommittee to work on modifications or any part of the bylaws?"

Laura responded, "Right.....I am actually as part of my job I am on the real estate commission and we do things like this. And we have to notice all of it too."

4. Follow-Up2: Ed asked, "I think we check with someone and they said as long as you kept it below a quorum at four, then you wouldn't have to follow that. But you are saying yes you would"

Laura responded, "Based upon the facts that I am hearing I would disagree with that conclusion. If it's a subcommittee or a group to discuss something, there's business over them, they should be following -- you know not calling it a subcommittee and call it a work group isn't going to change, I guess, what's happening.....it was basically a subcommittee to redo the bylaws? Yeah. They should have been following the open meetings act."

4. Comments – Travis said, "Pretty much like Tina said, the rules say that all meetings, all subcommittee meetings they need to follow the open meetings act. It's very simple."

4. Comments - Laura agreed, "Right. That's pretty much the bottom-line."

5. Question: Tina asked, "I want to make a comment about the executive director's report. Prior to my coming commissioner I would often ask for a copy of the executive director report which they would make available to me. So are you saying that there should be extra copies at the actual meeting in case we have guests coming in to observe what's going on in the commission meeting?"

5. Answer: Laura responded, "No. What I would do is -- if you look under -- you know the committee's report it lists specifically at least I think what the committee's report will be discussing, the bylaws, membership, healthcare, awards. If you note the report is going to be, just maybe a line so that people would know what the report is going to be about, figure out if it will be of any interest to them."

6. Question: Tina asked, Let me just give an example of that. Last year we had a gentleman that came as a visitor and he brought up an issue that was related to ADA communication access and it's a town that he lived in that he felt they were not providing assistive listening accommodations for him to be able to participate. So, I think the point of his discussion was to make us aware and perhaps get some feedback as to what to do. So I think that's an example of what we might encounter here at the commission meeting. So to me, that seems acceptable that we allow him to talk and raise the issue with him. We may or may not have a solution for him at that meeting "

6. Answer: Laura responded, "Right. But the thing you want to be careful about is if he is discussing something that is not on the agenda, well, you don't have a public forum."

NOTE: If the "public time" is on agenda, this would allow the visitors to express or share any issues with the Commissioners.

7. Question: Travis asked, " I have a question. Some people occasionally get confused by approving the closed meeting minutes. Some people think that you have to actually go into closed session to review those minutes. And then go ahead and approve them and I have been told that in fact no. During the review of the regular general meeting minutes, you can review the closed minutes in open session. And if there's no modifications, then you can go ahead and approve those closed meeting minutes. Both the open and closed meeting minutes. But if you do need to make a modification to the closed meeting minutes, then you have to go into closed session or executive session?"

7. Answer: Laura responded, " Are you sealing the minutes?..... If they haven't been sealed, you know, I have never been asked this question. I believe -- I should probably look into it more closely -- that you do not need to go into closed session to do that because if you are going to let the minutes be open to the public anyway, then they could be discuss in the open session. I suppose it would be up to the public body. Although that wouldn't be -- there's no exception -- there's no executive session allowance for that. So I guess it would have to be in open session. I could double-check and get back to you."

8. Question: Tina asked, ".I have a question. I'm a little confused. If we are going to go into closed session to discuss whatever. Towards the end of the closed session, do we have to make a motion to seal that meeting?"

8. Answer: Laura responded, "Only if you want to."

9. Question: Mary asked, "What's the difference in minutes from an open meeting and Minutes from a closed meeting that are sealed? How are those minutes handled differently?..... I'm on a board and when we go to our meeting and I get minutes from the open meeting and minutes from the closed session that are sealed, but I have copies of both of them. What's the difference in how those minutes are handled? Is this one open to the public. Is it posted somewhere and these are private? What's the difference in how sealed minutes and open public minutes are treated?"

9. Answer: - Laura responded, "Well the sealed minutes don't need to be made available to the public. Are you -- is your body within the executive branch? No?...Yes. so your minutes need to be posted on the secretary of state's website as well. The closed session minutes, if they are not sealed by the public body, should be put up there too. But the difference there

would be if you did seal them, you wouldn't need to post those on the secretary of state's website."

10. Question: - Jim C. asked, "How -- I was just -- a quick question on that. How often would you come across that where somebody comes in and wants you to look deeper into it? They must have some personal reason for doing that."

10. Answer: - Laura responded, "It happens frequently. But the thing is somebody has to find out that it was discussed, you know. If a public body goes into executive session and discusses something and they seal the minutes. Somebody there would have to tell them somebody outside of the group they were discuss something they weren't. So, I guess I really have no idea how often it's happening but we do get complaints about that fairly regularly."

10. Follow Up: Jim C. commented, "I just have trouble going over the \$5,000 penalty if you don't do it exactly right the first time".

10. Answer: - Laura responded, "It's -- well, if the person went to court, that would be different. But we very infrequently fine public bodies. We have to file a lawsuit and agree to settle for the money. But it's -- I mean it's something to be wary of but we are not going to start, you know, demanding tons of money from you."

11. Question: - Steve asked, "Now, for the regular meeting minutes, they need to be made available to the public up to 35 days after the meeting or another meeting, whichever comes first? would that be the draft or the official minutes?"

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11. Answer: - Laura responded, "that would be the draft of the minutes."

11. After confusing and questioning on this topic, Laura said, " I am going to discuss this with my -- the head of the open government unit tomorrow because I've never really thought about how these two sections of the law intersect with each other and I'm curious as to which one of these two sections would take precedence because the first one had a comes, had a discusses all of the minutes says had a only needs to be unofficial minutes within 35 days. So I wonder if our office -- I haven't seen the finding but if we interpreted how this applies to the public body, the executive branch needing to have it on their 35 days, if it can be one and then amended. But let me check with him and I will e-mail Steve an answer when and if we have one."

Laura Marasco handed out the papers about Open Meeting Act and Access to Public Records to all commissioners.

NEW BUSINESS:

- 1) Mary Wambach made a motion to approve the FY2009 Annual Report with revision. Andrew Knight seconded. The vote was carried 7-0, unanimously.

OLD BUSINESS:

- 1) The Interpreter Service was discussed. The commissioners agreed that the task force should be established. It will be on the agenda at the next meeting.

Travis left the meeting at 8:15pm.

EXECUTIVE DIRECTOR'S REPORT:

Steve summarized on legislative updates, interpreter updates including statistics and issues concerned among the commissioners, and among others in his report that was produced prior to the meeting.

Tina Thompson made a motion to adjourn the meeting. Mary Wambach seconded. The vote was carried, 6-0, unanimously. The meeting was adjourned at 9:00pm by Vice-Chair Ed.

Respectfully submitted,

Steven A. Florio
Executive Director
(Secretary for the May 19, 2010 meeting).