

# **MINUTES OF THE OPEN SESSION**

## **OF THE RHODE ISLAND ETHICS COMMISSION**

**March 22, 2005**

**The Rhode Island Ethics Commission held its 6th meeting of 2005 at 9:00 a.m. at the Rhode Island Ethics Commission Conference room, located at 40 Fountain Street, 8th Floor, Providence, Rhode Island, on Tuesday, March 22nd, 2005, pursuant to the notice published at the Commission Headquarters and on the State House Library.**

**The following Commissioners were present:**

**James Lynch, Sr., Chair James C. Segovis**

**Patricia M. Moran, Vice Chair Frederick K. Butler\***

**George E. Weavill, Jr., Secretary Barbara R. Binder**

**Richard E. Kirby Ross E. Cheit**

**Also present were Kathleen Managhan, Commission Legal Counsel; Kent A. Willever, Commission Executive Director; Jason M. Gramitt, Staff Attorney/Commission Education Coordinator; Staff Attorneys Dianne L. Leyden and Macall Robertson; and Commission Investigators Steven T. Cross and Michael Douglas.**

**At approximately 9:08 a.m., Chair Lynch opened the meeting. The first order of business was to extend time to approve the minutes of the Open Session held on March 8, 2005. Upon motion made by**

**Commissioner Weavill, and duly seconded by Commissioner Kirby, it was unanimously**

**VOTED: To extend time to approve the minutes of the Open Session held on March 8, 2005.**

**\*Commissioner Butler arrived at approximately 9:10 a.m.**

**The next order of business was that of a Public Hearing regarding the Proposed Regulatory Actions to Commission Regulation 36-14-5009 (Gifts) and Commission Regulation 36-14-1023 (Procedure for Complaints Relating to Financial Disclosure). This proceeding may be found in a stenographic record that is available at the offices of the Rhode Island Ethics Commission. Chair Lynch explained that the purpose of the meeting was to hear public comment and vote on the Proposed Regulatory Actions. He pointed out that he would limit the testimony if necessary. In addition, he noted that the Commission received emails from the public on the Proposed Regulatory Actions that some of the Commissioners were not yet given an opportunity to read.**

**The Commission then heard public testimony on the Proposed Regulatory Actions. Six individuals presented testimony on Commission Regulation 36-14-5009 (Gifts) for which the Commission proposed two alternative amendments, titled Option #1 and Option #2 respectively.**

**First, Kevin McAllister, a resident of Cranston and a lawyer with offices in Providence, representing both himself and Common Cause of Rhode Island, testified in support of both options, but stated that Option #2 made more sense to him. He noted that when a clear cut ban was in place, it made it simpler to refuse gifts when he was Cranston City Council President. In response to Commissioner Cheit, Mr. McAllister stated that Common Cause of Rhode Island preferred Option #2.**

**Second, Mr. William Colleran, a retired engineer from Bristol, representing himself, testified that he supported Option #2. He noted that he previously testified before the Commission on amendments to this regulation five years ago.**

**Third, Robert Sumner-Mack, representing himself, testified that he found both options fine, but preferred zero tolerance. He pointed out that he testified before the Commission on amendments to this regulation five years ago when he was running for office as a Rhode Island State Representative. While campaigning at that time, he testified that various Rhode Island lobbyists and business members would not speak out about the gift rule. In response to Mr. Sumner-Mack's remark that the Commission now had new members, Chair Lynch responded that not all of the members of the Commission are new since five years ago.**

**Fourth, Mr. H. Philip West, representing Common Cause of Rhode Island as its Director, testified at length about various events that took place over approximately the last ten years and that, in his opinion, led to these Proposed Regulatory Actions. He commented that Common Cause of Rhode Island would prefer a zero tolerance rule for gifts, but stated that it favors Option #2 because he understands the way that most discussions with public officials take place. He noted that there is plenty of resistance to these proposals although no one has said so today. Mr. West concluded by comparing the gift regulation to a pendulum, stating that Option #2 is the right position because it is in-between the past policy of zero tolerance and the current regulation.**

**Fifth, Mr. Harry Staley, representing the Rhode Island Shoreline Coalition as its President, testified that he supported either option, but was personally for zero tolerance. He asked that whatever the Commission decides, that it act quickly and be forceful.**

**Sixth, Ms. Tory McCagg, Chairwoman of Common Cause of Rhode Island's Ethics Committee, represented Common Cause of Rhode Island. She testified that she was thankful for both options and found both reasonable. She stated that Option #2 was a reasonable compromise that would allow public officials to have hors d'oeuvres and a glass of wine at a reception hosted by a citizens group without fear of breaking a rule. She also pointed out that she testified before the Commission five years ago when the Commission repealed the**

**gift ban. Furthermore, Ms. McCagg stated her opinion that Option #1 has no monetary limit and does not limit spouses from receiving a gift. She informed the Commission that in the German language, the word “gift” means “poison.”**

**No further public comment was offered on the Proposed Regulatory Actions. At approximately 9:45 a.m., upon motion made by Commissioner Weavill, and duly seconded by Commissioner Kirby, it was unanimously**

**VOTED: To adjourn for 15 minutes to allow the Commissioners to consider the emails sent to the Commission on the Proposed Regulatory Actions.**

**At approximately 10:00 a.m., Chair Lynch resumed the meeting and inquired as to whether there was any additional testimony on the Proposed Regulatory Actions to either Commission Regulation 36-14-5009 or Commission Regulation 36-14-1023. In response, Staff Attorney Gramitt explained that the purpose of amending Commission Regulation 36-14-1023 was ministerial. He pointed out that there were a couple of instances in Commission Regulation 36-14-1023 where incorrect regulations were referenced and that the amendment cured these errors. No other testimony was offered. Chair Lynch then inquired as to whether the Commissioners had any comments on the emails submitted. No comments were made. Upon motion made by Commissioner Weavill, and duly seconded by**

**Commissioner Segovis, it was unanimously**

**VOTED: To adopt the Proposed Amendment to Commission Regulation 36-14-1023.**

**Chair Lynch recommended that the Commission consider one of the options to amend Commission Regulation 36-14-5009. Upon motion made by Commissioner Segovis, and duly seconded by Commissioner Cheit, it was unanimously**

**VOTED: To adopt Option #2 to amend Commission Regulation 36-14-5009.**

**Commissioner Kirby inquired whether the Commission needed to put findings on record. Staff Attorney Gramitt stated that the Commission gave thirty days notice of the public hearing and gave the public the option to present both written and oral testimony at the hearing. Staff Attorney Gramitt also pointed out that the Commission gave written notice to the Governor's Office and to the Rhode Island Economic Development Corporation on these regulations to see if they would impact small businesses in Rhode Island. Staff Attorney Gramitt noted that the Commission received no comment from either office so no more had to be done by the Commission regarding that requirement. Staff Attorney Gramitt informed the Commission that it could vote on the need for these regulations, but stated that he did not think that was necessary since the need was already on the**

**record based on testimony and discussion.**

**Commissioner Binder noted that the regulations will automatically take effect. Staff Attorney Gramitt confirmed this statement and informed that the regulations will automatically become effective twenty days after the Commission files the amended regulations with the Secretary of State. Commissioner Binder mentioned that these new regulations will not affect gifts already received. Staff Attorney Gramitt responded that gifts received prior to the application of the new requirement will have the prior reporting requirement. Commissioner Butler inquired as to how the public will be made aware of these changes. Staff Attorney Gramitt responded that Commission Staff are looking into this and are considering the provision of notice in payroll envelopes, by email, and by letter. He also noted that the new regulation will be a part of future educational programs.**

**Chair Lynch thanked the Commission Staff for their months of hard work on these regulations. At approximately 10:10 a.m., upon motion by Commissioner Weavill, and duly seconded by Commissioner Binder, it was unanimously:**

**VOTED: To go into Executive Session pursuant to R.I. Gen. Laws § 42-46-5(a)(2) and (a)(4), for the discussion of investigative proceedings regarding allegations of misconduct and/or the discussion of litigation, and approval of minutes relating to such**

**discussions, to wit:**

**a.) Motion to extend time to approve the minutes of Executive Session held on March 8, 2005.**

**At approximately 10:13 a.m., the Commission returned to Open Session and Chair Lynch reported on the actions taken in Executive Session. The next order of business was new business. There being none, at approximately 10:15 a.m., upon motion made by Commissioner Weavill, and duly seconded by Commissioner Kirby, it was unanimously**

**VOTED: To adjourn the meeting.**

**Respectfully submitted,**

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**George E. Weavill, Jr.**

**Secretary**