

**MINUTES OF THE OPEN SESSION
OF THE RHODE ISLAND ETHICS COMMISSION
September 13, 2005**

The Rhode Island Ethics Commission held its 16th 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, September 13, 2005, pursuant to the notice published at the Commission Headquarters and at the State House Library.

The following Commissioners were present:

James Lynch, Sr., Chair Barbara Binder

George E. Weavill, Jr., Secretary Ross Cheit James C. Segovis

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

At approximately 9:08 a.m., the Chair opened the meeting. The first order of business was to approve the minutes of the Open Session held on August 30, 2005. Upon motion made by Commissioner Weavill, and duly seconded by Commissioner Binder, it was unanimously

**VOTED: To approve the minutes of the Open Session held
on August 30, 2005.**

**AYES: James Lynch, Sr., George E. Weavill, Jr., James
C. Segovis, Barbara Binder, and Ross Cheit.**

The next order of business was advisory opinions. The advisory opinions were based on draft advisory opinions prepared by the Commission Staff for review by the Commission and were scheduled as items on the Open Session Agenda for this date.

The first advisory opinion was that of K. Joseph Shekarchi, Esq., a potential candidate for the Warwick City Council. The petitioner was present. Staff Attorney Robertson presented the Commission Staff recommendation.

In response to Commissioner Weavill, the petitioner stated that he does not practice law before the Warwick Probate Court. The petitioner commented that, from his perspective, he did not think that the City Council participated in the appointment process of the Zoning Board because its members are appointed by the Mayor and he informed that he would recuse himself from the City Council's confirmation of the Mayor's appointments to this Board. Nonetheless, the petitioner stated that he would follow whatever advice the Commission provided to him.

Upon motion made by Commissioner Weavill, duly seconded by Commissioner Segovis, it was unanimously

VOTED: To issue an advisory opinion, attached hereto, K. Joseph Shekarchi, Esq., a potential candidate for the Warwick City Council.

AYES: James Lynch, Sr., George E. Weavill, Jr., James C. Segovis, Barbara Binder, and Ross Cheit

The next advisory opinion was that of John DiMaio, a Councilman for the Town of Johnston. The petitioner was present. Staff Attorney Leyden presented the Commission Staff recommendation.

Commissioner Binder asked how this opinion compared to past advisory opinions in which the petitioner was allowed to participate in a vote on a contract. Staff Attorney Gramitt responded that each opinion is written based upon the particular representations made by the petitioner. Commissioner Segovis noted that there is a difference between voting on a contract when the petitioner is a member of a sub-committee on retirement reviewing a particular portion of the contract and the overall Town Council voting on the overall contract.

The petitioner commented that he does not negotiate the contract, rather he just votes on it. He pointed out that he is concerned with the fiscal aspect of the contract, not the negotiation. In response to Commissioner Binder, the petitioner stated that there are 82 members

of the Johnston Police Department.

Upon motion made by Commissioner Segovis, duly seconded by Commissioner Weavill, it was unanimously

VOTED: To issue an advisory opinion, attached hereto, to John DiMaio, a Councilman for the Town of Johnston.

AYES: James Lynch, Sr., George E. Weavill, Jr., James C. Segovis, Barbara Binder, and Ross Cheit.

The next advisory opinion was that of David W. Schweid, a part-time Town Planner for the Town of Exeter. The petitioner was present. Staff Attorney Robertson presented the Commission Staff recommendation.

In response to Commissioner Weavill, the petitioner informed that he was hired by the Town Council and serves at their pleasure. He represented that the Town Council pays him a stipend as the part-time Town Planner, and that they may choose to pay him for additional hours at this rate as the part-time Town Planner to work on these projects.

In response to Commissioner Weavill, Staff Attorney Robertson stated that the petitioner is not really representing someone before the Planning Board. The petitioner also stated that all of his work is

for the Town and that he is not advocating the interests of a third party. Commissioner Binder noted that the distinction here is that the petitioner is working for the Town, not a private company. She commented that the petitioner is only representing the Town's interests.

In response to Commissioner Segovis, the petitioner noted that the Planning Board has a lot of money in its budget set aside for hiring outside consultants and he noted that the Planning Board does not have the option of paying him additional hours to do such projects like the City Council is now doing. He stated that the Planning Board would have to hire him as a consultant to do these projects. He also pointed out that how he is hired for such projects will depend on which entity spearheads them.

Staff Attorney Gramitt stressed that the important distinction here is that the Town is the only employer and the petitioner is not representing another interest. Legal Counsel Managhan pointed out that section 5(e) of the Code of Ethics regards representing another interest.

Upon motion made by Commissioner Binder, duly seconded by Commissioner Segovis, it was unanimously

VOTED: To issue an advisory opinion, attached hereto, to David W. Schweid, a part-time Town Planner for the Town of Exeter.

AYES: James Lynch, Sr., George E. Weavill, Jr., James C. Segovis, Barbara Binder, and Ross Cheit.

The next advisory opinion was that of Raymond P. Cooney, the City Solicitor of Central Falls. The petitioner was not present. Staff Attorney Gramitt presented the Commission Staff recommendation.

Commissioner Weavill commented that he hoped that the Mayor and the City Solicitor understood the difficulties their plans may bring. He noted that the tenure of the City Solicitor is not very long in Central Falls and given this proposed situation, the Mayor may not be able to fire him. Staff Attorney Gramitt stated that he made the petitioner aware that both the Mayor and City Solicitor may have problems ahead. Chair Lynch noted that both of these officials may be before the Commission again in the not too distant future to work out operating issues under these circumstances.

Upon motion made by Commissioner Binder, duly seconded by Commissioner Cheit, it was unanimously

VOTED: To issue an advisory opinion, attached hereto, to Raymond P. Cooney, the City Solicitor of Central Falls.

AYES: James Lynch, Sr., George E. Weavill, Jr., James C. Segovis, Barbara Binder, and Ross Cheit.

Both Commissioners Weavill and Segovis noted that they reluctantly voted for

issuing this opinion. Chair Lynch noted that none of the Commissioners are comfortable with this situation because the officials are inviting more difficulty upon themselves.

At approximately 9:40 a.m., upon motion made by Commissioner Weavill, duly seconded by Commissioner Cheit, it was unanimously

VOTED: To go into Executive Session pursuant to R.I. Gen. Laws § 42-46-5(a)(1), (a)(2), and (a)(4), to wit:

a.) To approve the minutes of Executive Session held on August 30, 2005.

**b.) In re: Michelle R. Williams,
Complaint No. 2005-3**

**c.) In re: Joseph J. Voccola,
Complaint No. 2005-18**

d.) T. Brian Handrigan v. RIEC, C.A. No. PC05-3759.

AYES: James Lynch, Sr., George E. Weavill, Jr., James C. Segovis, Barbara Binder, and Ross Cheit.

At approximately 10:57 a.m., the Commission returned to Open Session. Chair Lynch reported that the Commission took the following actions in the Executive Session:

a.) Voted to approve the minutes of Executive Session held on August 30, 2005.

b.) There was no majority decision on finding probable cause for In re: Michelle R. Williams, Complaint No. 2005-3.

c.) Voted to approve the Informal Resolution and Settlement with a fine of \$500.00 for In re: Joseph J. Voccola, Complaint No. 2005-18.

d.) The Commission discussed the case of T. Brian Handrigan v. RIEC, C.A. No. PC05-3759, which is ongoing and for which no action was taken today.

The next order of business was sealing the minutes of the Executive Session held on August 30, 2005. Upon motion made by Commissioner Cheit, duly seconded by Commissioner Binder, it was unanimously

VOTED: To seal the minutes of the Executive Session held on August 30, 2005.

AYES: James Lynch, Sr., George E. Weavill, Jr., James C. Segovis, Barbara Binder, and Ross Cheit.

The next order of business was discussion of Commission Regulations. Staff Attorney Gramitt stated that he had nothing to add at this time regarding the Commissions proposed regulatory changes.

The next order of business was the Director's Report. Executive Director Willever reported on the pending complaints, investigations, and advisory opinions. He noted that the Commission Staff have received many requests for presentations on the Code of Ethics. Executive Director Willever also informed the Commission that he and Staff Attorney Gramitt are filling in for ethics attorneys from Louisiana who are now unable to give a presentation at the meeting of the American Association of Public Welfare Attorneys on September 26th. He noted that meeting was moved to Rhode Island.

The next order of business was New Business. There was no New Business.

At approximately 11:00 a.m., upon motion made by Commissioner Segovis, duly seconded by Commissioner Binder, it was unanimously

VOTED: To adjourn the meeting.

**AYES: James Lynch, Sr., George E. Weavill, Jr., James C. Segovis,
Barbara Binder, and Ross Cheit.**

Respectfully submitted,

**George E. Weavill, Jr.
Secretary**