

**MINUTES OF THE OPEN SESSION  
OF THE RHODE ISLAND ETHICS COMMISSION  
October 11, 2005**

**The Rhode Island Ethics Commission held its 17th 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, October 11, 2005, pursuant to the notice published at the Commission Headquarters and at the State House Library.**

**The following Commissioners were present:**

<b>James Lynch, Sr., Chair</b>	<b>James C. Segovis*</b>
<b>George E. Weavill, Jr., Secretary</b>	<b>Frederick K. Butler</b>
<b>Richard E. Kirby*</b>	<b>Barbara Binder</b>
<b>James V. Murray</b>	<b>Ross Cheit</b>

**Also present were Kathleen Managhan, Commission Legal Counsel; Kent A. Willever, Commission Executive Director\*; Jason Gramitt, Senior 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 September 13, 2005. Upon motion made by Commissioner**

**Segovis, duly seconded by Commissioner Binder, it was unanimously**

**VOTED: To approve the minutes of the Open Session held on September 13, 2005.**

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

**ABSTENTIONS: Frederick K. Butler and James V. Murray.**

**\* Kent A. Willever, the Commission's Executive Director, arrived at approximately 9:10 a.m.**

**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 Lenette F. Boiselle, Esq., a Commissioner on the Rhode Island Underground Storage Tank Review Board. The petitioner was present. Staff Attorney Robertson presented the Commission Staff recommendation.**

**In response to Commissioner Butler, the petitioner stated that the members of API seeking reimbursements from her Board may potentially sit on the Board of Directors of API and that she will track**

**these positions in the future. Commissioner Butler inquired whether the opinion would change if a member of API seeking reimbursement from her Board served on the Board of API. Staff Attorney Robertson replied that it would change and that the petitioner should contact the Commission at that time. The petitioner commented that she did not think that such a situation would result in a direct benefit to her client because it was too far removed. Commissioner Binder clarified to the petitioner that this situation is not before the Commission.**

**Commissioner Segovis inquired whether the petitioner's income from API is substantially in excess of \$100 as she represented in her request. The petitioner informed that she actively lobbies for API and that her income is commensurate with such activities. She stated that she discloses these lobbying activities to the Secretary of State.**

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

**VOTED: To issue an advisory opinion, attached hereto, Lenette F. Boiselle, Esq., a Commissioner on the Rhode Island Underground Storage Tank Review Board.**

**AYES: James Lynch, Sr., George E. Weavill, Jr., James V. Murray, James C. Segovis, Frederick K. Butler, Barbara Binder, and Ross Cheit.**

**The next advisory opinion was that of Lynda D. Kahn, the former Executive Director for the Division of Developmental Disabilities at the Department of Mental Health, Retardation, and Hospitals. The petitioner was present. Staff Attorney Leyden presented the Commission Staff recommendation. The petitioner informed that she will not represent herself or any other person or agency before MHRH or the Division.**

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

**VOTED: To issue an advisory opinion, attached hereto, to Lynda D. Kahn, the former Executive Director for the Division of Developmental Disabilities at the Department of Mental Health, Retardation, and Hospitals.**

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

**RECUSAL: James V. Murray.**

**The next advisory opinion was that of John Aloysius Cogan, Jr., Esq., Executive Assistant for Policy and Program Review in the Office of Health Insurance Commissioner. The petitioner was present. Staff Attorney Robertson presented the Commission Staff**

**recommendation.**

**In response to Commissioner Murray, the petitioner informed that he started at PSH in March of 2003 and that he is not benefiting from any capital accounts or profit sharing from PSH. Also in response to Commissioner Murray, the petitioner stated that he did not work with Mr. Purcell, the former managing partner at PSH.**

**In response to questions of the Commissioners, the petitioner explained how the Attorney General's motion related to his participation in a matter at the OHIC and informed that his request for an advisory opinion was not related to this motion. The petitioner informed that he sought an advisory opinion due to the high profile of Blue Cross. In response to Commissioner Butler, the petitioner informed that there was no understanding that he would return to PSH after working at the OHIC and he disclosed that he has no plans to return to PSH.**

**Upon motion made by Commissioner Butler, duly seconded by Commissioner Murray, it was unanimously**

**VOTED: To issue an advisory opinion, attached hereto, to John Aloysius Cogan, Jr., Esq., Executive Assistant for Policy and Program Review in the Office of Health Insurance Commissioner.**

**AYES: James Lynch, Sr., George E. Weavill, Jr., James V. Murray,**

**James C. Segovis, Frederick K. Butler, Barbara Binder, and Ross Cheit.**

**\* Commissioner Kirby arrived at 9:35 a.m.**

**The next advisory opinion was that of James W. Farley, Chairman and member of the Bristol Planning Board. The petitioner was present. Staff Attorney Robertson presented the Commission Staff recommendation.**

**In response to Commissioner Weavill, the petitioner informed that the development was waterfront property and that the project was before the Board for three years. Also in response to Commissioner Weavill, the petitioner informed that Bristol's Town Engineers and Planning Department monitor the project and that if there were problems with the project that it was possible, but unlikely, that the project would come before his Board given how far along it is at this time. The petitioner informed that he would recuse himself from such matters if he purchases a unit. Commissioner Kirby remarked that the petitioner would have to recuse from all matters related to this developer. Commissioner Segovis inquired whether the petitioner would have to show that he purchased the unit for fair market value. Staff Attorney Robertson replied that the opinion does not mention fair marker value. She noted that the opinion does state that the petitioner may not use his office for financial gain.**

**In response to Commissioner Cheit, the petitioner explained how many units were sold in each building of the development. He stated that there are 82 overall units and that most of them are sold. He represented that he was invited to visit the project as an official to view its progress. In response to Commissioner Cheit, the petitioner informed that the developers were proud of the project and wanted to show the town the project's positive impact. Commissioner Kirby informed that the Commission cannot prevent him from making a private purchase and noted to the petitioner that, regardless of the opinion, he may face the strict scrutiny of the residents of the town if he proceeds with the purchase.**

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

**VOTED: To issue an advisory opinion, attached hereto, James W. Farley, Chairman and member of the Bristol Planning Board.**

**AYES: James Lynch, Sr., George E. Weavill, Jr., Richard E. Kirby, James V. Murray, James C. Segovis, Frederick K. Butler, Barbara Binder, and Ross Cheit.**

**The next advisory opinion was that of David A. Lovett, the President of the North Smithfield Town Council. The petitioner was not present.**

**Staff Attorney Robertson presented the Commission Staff recommendation.**

**In response to Commissioner Cheit, Staff Attorney Robertson explained that there is a rebuttable presumption of financial impact to those who are abutters. In response to questions by the Commissioners, she pointed out that the key point here is that the petitioner represented that there will be no financial impact to him or his family. She also informed that one of the other members of the Town Council received an advisory opinion from the Commission. Commissioner Weavill inquired about whether the Rule of Necessity applied here. Staff Attorney Robertson briefly explained that the Rule of Necessity applies in limited situations and that its requirements were not met here.**

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

**VOTED: To issue an advisory opinion, attached hereto, to David A. Lovett, the President of the North Smithfield Town Council.**

**AYES: James Lynch, Sr., George E. Weavill, Jr., James V. Murray, James C. Segovis, Frederick K. Butler, Barbara Binder, and Ross Cheit.**

**RECUSAL: Richard E. Kirby.**

**The next advisory opinion was that of Tara M. Capuano, an alternate**

**member of the Town of Cumberland Zoning Board. The petitioner was not present. Staff Attorney Leyden presented the Commission Staff recommendation.**

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

**VOTED: To issue an advisory opinion, attached hereto, to Tara M. Capuano, an alternate member of the Town of Cumberland Zoning Board.**

**AYES: James Lynch, Sr., George E. Weavill, Jr., James V. Murray, James C. Segovis, Frederick K. Butler, Barbara Binder, and Ross Cheit.**

**RECUSAL: Richard E. Kirby.**

**At approximately 10:00 a.m., upon motion made and duly seconded, 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 September 13, 2005.**

**b.)In re: William J. Devanney, Complaint No. 2005-15**

**c.)In re: Diane Bampton Allen, Complaint No. 2005-16**

**d.)In re: Wayne E. Cross, Complaint No. 2005-17**

**e.)In re: David Swain, Complaint No. 2000-9**

**f.)In re: Deborah Redmond, Complaint No. NF2005-32**

**g.)In re: Steven Drager, Complaint No. NF2005-34**

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

**AYES: James Lynch, Sr., George E. Weavill, Jr., Richard E. Kirby, James V. Murray, James C. Segovis, Frederick K. Butler, Barbara Binder, and Ross Cheit.**

**At approximately 11:55 a.m., the Commission returned to Open Session.**

**\* Commissioner Segovis left the meeting at approximately 11:55 a.m.**

**Chair Lynch reported that the Commission took the following actions in Executive Session:**

**a.)Voted to approve the minutes of Executive Session held on September 13, 2005.**

**b.)Voted to accept an Informal Resolution and Settlement for In re: William J. Devanney, Complaint No. 2005-15, with an imposition of a fine of \$250.00.**

**c.)Voted to accept an Informal Resolution and Settlement for In re: Diane Bampton Allen, Complaint No. 2005-16, with an imposition of a fine of \$250.00.**

**d.)Voted to accept an Informal Resolution and Settlement for In re: Wayne E. Cross, Complaint No. 2005-17, with an imposition of a fine of \$250.00.**

**e.)Voted to accept an Informal Resolution and Settlement for In re: David Swain, Complaint No. 2000-9, with an imposition of a fine of \$750.00.**

**f.)The Commission took no action on In re: Deborah Redmond, Complaint No. NF2005-32, as a settlement was reached with Commission Staff before today's meeting.**

**g.)Voted to find that there exists probable cause for In re: Steven Drager, Complaint No. NF2005-34.**

**h.)The Commission took no action for T. Brian Handrigan v. RIEC, C.A. No. PC05-3759.**

**The next order of business was sealing the minutes of the Executive Session held on October 11, 2005. Upon motion made by Commissioner Kirby, duly seconded by Commissioner Binder, it was unanimously**

**VOTED: To seal the minutes of the Executive Session held on October 11, 2005.**

**AYES: James Lynch, Sr., George E. Weavill, Jr., Richard E. Kirby, James V. Murray, Frederick K. Butler, Barbara Binder, and Ross Cheit.**

**The next order of business was Election of Officers. Commissioner Kirby made a motion for the current slate to remain, which was duly seconded by Commissioner Binder. Commissioner Cheit voiced his concern about voting on the current slate given that the Vice Chair is not present.**

**After discussion and by consensus, the Commissioners decided to make a new motion. Commissioner Binder made a motion to vote on the current slate excluding the position of Vice Chair and Commissioner Cheit duly seconded this motion. It was unanimously**

**VOTED: To proceed with the current slate of officers for another year except for the position of Vice Chair.**

**AYES: James Lynch, Sr., George E. Weavill, Jr., Richard E. Kirby, James V. Murray, Frederick K. Butler, Barbara Binder, and Ross Cheit.**

**Commissioner Weavill informed that he could be replaced because his term is expired. Commissioner Cheit stated that he was troubled about nominating someone in their absence.**

**Upon motion made by Chairman Lynch, which was duly seconded, it was unanimously**

**VOTED: That Commissioner Binder be the next Vice Chair for one year.**

**AYES: James Lynch, Sr., George E. Weavill, Jr., Richard E. Kirby, James V. Murray, Frederick K. Butler, Barbara Binder, and Ross Cheit.**

**Chair Lynch pointed out that this was also his last year of service on the Commission.**

**The next order of business was discussion of Commission Regulations. Senior Staff Attorney Gramitt reported that there was no**

**update on this item.**

**The next order of business was the Director's Report. Executive Director Willever reported that he would like to know who plans on attending the COGEL Conference.**

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

**At approximately 12:05 p.m., upon motion made by Commissioner Kirby, duly seconded by Commissioner Binder, it was unanimously**

**VOTED: To adjourn the meeting.**

**AYES: James Lynch, Sr., George E. Weavill, Jr., Richard E. Kirby, James V. Murray, Frederick K. Butler, Barbara Binder, and Ross Cheit.**

**Respectfully submitted,**

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**George E. Weavill, Jr.**

**Secretary**