

**MINUTES OF THE OPEN SESSION
OF THE RHODE ISLAND ETHICS COMMISSION**

September 26, 2006

The Rhode Island Ethics Commission held its 17th meeting of 2006 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 26, 2006, pursuant to the notice published at the Commission Headquarters and at the State House Library.

The following Commissioners were present:

**James Lynch, Sr., Chair James V. Murray
Barbara Binder, Vice Chair James C. Segovis
George E. Weavill, Jr., Secretary Ross Cheit
Richard E. Kirby**

Also present were Kathleen Managhan, Commission Legal Counsel; Kent A. Willever, Commission Executive Director; Katherine D'Arezzo, Senior Staff Attorney; Jason M. Gramitt, Staff Attorney/Education Coordinator; Staff Attorney Dianne Leyden and Commission Investigators Steven T. Cross, Peter J. Mancini, and Michael Douglas.

At approximately 9:10 a.m., the Chair opened the meeting.

The first order of business was to approve the minutes of the Open Session held on September 12, 2006. Upon motion made by Commissioner Binder and duly seconded by Commissioner Cheit, it was unanimously

VOTED: To approve the minutes of the Open Session held on September 12, 2006.

The next order of business was a Public Hearing on proposed amendments to the Code of Ethics relating to Nepotism and Revolving Door. Senior Staff Attorney D'Arezzo provided the Commission with an overview of the proceedings under the Administrative Procedures Act. A stenographic transcript of the proceedings is available at the Commission Offices.

The first item noticed for public hearing was Regulation 36-14-5005.1 Prohibited Activities- Nepotism. Staff Attorney Gramitt provided a summary of the proposed regulation. Chair Lynch asked those individuals who had signed up to provide public testimony on Regulation 36-14-5005.1 to address the Commission. The Commission heard testimony from H. Philip West of Common Cause and Andrew Hodgkin, Esq. Legal Counsel to the Governor.

***9:40 a.m. Commissioner Kirby arrives.**

The next item noticed for public hearing was Regulation 36-14-5014

Prohibited Activities- Municipal Official Revolving Door. Senior Staff Attorney D'Arezzo provided a summary of the proposed regulation. The Commission heard testimony from H. Philip West of Common Cause, who distributed a chart to the Commission quantifying revolving door issues regarding judicial appointments.

The next item noticed for public hearing was Regulation 36-14-5015 Prohibited Activities- Municipal Staff Revolving Door. Ms. D'Arezzo provided a summary of the proposed regulation. The Commission heard testimony from H. Philip West of Common Cause.

The next item noticed for public hearing was Regulation 5016 Prohibited Activities- Revolving Door, "Employment" Defined. Senior Staff Attorney D'Arezzo provided a summary of the proposal. Chair Lynch asked for public comment on the proposal. The Commission heard testimony from H. Philip West of Common Cause and Andrew Hodgkin, Esq., Legal Counsel to the Governor.

The next item noticed for public hearing was Regulation 5017 Prohibited Activities – State Executive/Administrative Revolving Door. Senior Staff Attorney D'Arezzo provided a summary of Alternatives #1 and #2. She clarified that in both options the language "Regulation E (b)" was retained from the workshop sessions and should read "Regulation 5018." The Commission heard testimony from H. Philip West of Common Cause.

The next item noticed for public hearing was Regulation 5018 Prohibited Activities- Representing Oneself or Others, Defined. Staff Attorney Gramitt provided a summary of the proposal. Chair Lynch asked for public comment on the proposal. The Commission heard testimony from H. Philip West of Common Cause.

The next item noticed for public hearing was Regulation 36-14-5006 Employment From own Board. The Commission heard testimony from H. Philip West of Common Cause.

The next item noticed for public hearing was Regulation 36-14-5007 Prohibition on State Employment. The Commission heard testimony from H. Philip West of Common Cause and Andrew Hodgkin, Esq., Legal Counsel to the Governor.

Attorney Hodgkin distributed correspondence to the Commission detailing his comments on the individual proposals.

***At 10:50 a.m. the Commission recessed to review Attorney Hodgkin's correspondence and reconvened at 11:05 a.m.**

Chair Lynch asked for discussion on Regulation 36-14-5005.1 Prohibited Activities- Nepotism. In response to Commissioner Cheit, Staff Attorney Gramitt indicated that he would like more time to consider the implications of removing the requirement of a "direct" monetary gain. Commissioner Kirby voiced that he would be comfortable removing it and noted that language regarding obtaining

an “employment advantage” was added to address some non-direct benefits. Commissioner Segovis suggested that the Staff be given additional time to review the proposal to prevent unintended consequences. Commissioner Binder also noted that the issue of the class exception was raised during public comment. Upon motion made by Commissioner Kirby and duly seconded by Commissioner Binder, it was unanimously

VOTED: To refer Regulation 36-14-5005.1 Prohibited Activities- Nepotism back to the Commission for further review.

Commissioner Weavill added that the Commission should discuss the disclosure of family relationships. Commissioner Kirby observed that the financial disclosure statute requires one to list minor children, but not adult children and their employers.

Chair Lunch asked for discussion on Regulation 36-14-5014 Prohibited Activities- Municipal Official Revolving Door. Commissioner Segovis stated that he did not believe the changes requested by Common Cause were substantive. Senior Staff Attorney D’Arezzo replied that they were not and the Commission could choose to keep the language defining employment in a separate section or include it in section (a). The consensus of the Commission was to keep the language in a separate section. Commissioner Kirby noted that no representatives of cities or towns appeared to testify on the proposal, so it appears that there is no

impact on them. Upon motion made by Commissioner Kirby and duly seconded by Commissioner Weavill, it was unanimously

VOTED: That the Commission finds that: there is a need for adoption, amendment or repeal of the regulation, as demonstrated in the record; there is no alternative approach among those considered that would be as effective and less burdensome to affected private persons; the Commission has identified other state regulations which are overlapped or duplicated by the proposal and justified any overlap or duplication; and the proposal would not have a significant adverse economic impact on small businesses or any city or town.

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

VOTED: To adopt Regulation 36-14-5014 Prohibited Activities- Municipal Official Revolving Door.

Chair Lynch asked for discussion on Regulation 36-14-5015 Prohibited Activities- Municipal Staff Revolving Door. Commissioner Kirby noted Mr. West's observations relative to differences at the municipal level that could create problems later on and suggested that the prohibition may be more applicable to state agencies. Commissioner Cheit agreed and suggested that the Commission examine whether the proposal should be abandoned or the language changed. The consensus of the Commission was to refer the

proposal back to the Commission. Upon motion made by Commissioner Binder and duly seconded by Commissioner Kirby, it was unanimously

VOTED: To refer Regulation 36-14-5015 Prohibited Activities- Municipal Staff Revolving Door back to the Commission for further review.

Chair Lynch stated that he was in favor of going forward with some form of this proposal.

Chair Lynch asked for discussion on Regulation 5016 Prohibited Activities- Revolving Door, "Employment" Defined. Commissioner Binder stated that the Commission should reconsider the proposal due to public testimony raising concerns that it would prohibit a new administration from hiring an individual with expertise in a particular area to handle a matter. Commissioner Segovis indicated that the goal was to get at lobbying issues but there could be situations where the state would need a particular resource. Chair Lynch expressed that there could be an exception carved out. Upon motion made by Commissioner Binder and duly seconded, it was unanimously

VOTED: To refer Regulation 5016 Prohibited Activities- Revolving Door, "Employment" Defined back to the Commission for further review.

Chair Lynch asked for discussion of Regulation 5017 Prohibited Activities – State Executive/Administrative Revolving Door, Alternatives #1 and #2. The consensus of the Commission was that Alternative #2 was the better approach. Upon motion made by Commissioner Weavill and Commissioner Binder, it was unanimously

VOTED: That the Commission finds that: there is a need for adoption, amendment or repeal of the regulation, as demonstrated in the record; there is no alternative approach among those considered that would be as effective and less burdensome to affected private persons; the Commission has identified other state regulations which are overlapped or duplicated by the proposal and justified any overlap or duplication; and the proposal would not have a significant adverse economic impact on small businesses or any city or town.

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

VOTED: To adopt Regulation 5017 Prohibited Activities – State Executive/Administrative Revolving Door, Alternative #2.

Chair Lynch asked for discussion on Regulation 5018 Prohibited Activities- Representing Oneself or Others, Defined. Upon motion made by Commissioner Murray and duly seconded by Commissioner Segovis, it was unanimously

VOTED: That the Commission finds that: there is a need for adoption, amendment or repeal of the regulation, as demonstrated in the record; there is no alternative approach among those considered that would be as effective and less burdensome to affected private persons; the Commission has identified other state regulations which are overlapped or duplicated by the proposal and justified any overlap or duplication; and the proposal would not have a significant adverse economic impact on small businesses or any city or town.

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

VOTED: To adopt Regulation 5018 Prohibited Activities-Representing Oneself or Others, Defined.

Chair Lynch asked for discussion of Regulation 36-14-5006 Employment From own Board. Upon motion made by Commissioner Weavill and duly seconded by Commissioner Segovis, it was unanimously

VOTED: That the Commission finds that: there is a need for adoption, amendment or repeal of the regulation, as demonstrated in the record; there is no alternative approach among those considered that would be as effective and less burdensome to affected private persons; the Commission has identified other state regulations which

are overlapped or duplicated by the proposal and justified any overlap or duplication; and the proposal would not have a significant adverse economic impact on small businesses or any city or town.

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

VOTED: To amend Regulation 36-14-5006 Employment From own Board.

Chair Lynch asked for discussion on Regulation 36-14-5007 Prohibition on State Employment. Commissioner Weavill urged rejection of the proposed repeal. Commissioner Kirby suggested that they keep it in place and add new language defining employment more broadly. Commissioner Binder stated that it should be further reviewed. Upon motion made by Commissioner Segovis and duly seconded by Commissioner Binder, it was unanimously

VOTED: To refer Regulation 36-14-5007 Prohibition on State Employment back to the Commission for further review.

Commissioner Cheit stated that the public testimony received from Common Cause and the Governor's Office was beneficial to the Commission's consideration of the proposals. Chair Lynch thanked Mr. West and Attorney Hodgkin for their comments, which he noted would be considered as part of the review process for ongoing Code

revision. Commissioners Weavill and Kirby wished Mr. West well on his upcoming retirement and thanked him for his good work on behalf of Common Cause.

At approximately 11:37 a.m., upon motion made by Commissioner Weavill and duly seconded by Commissioner Cheit, it was unanimously

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

a.) Motion to approve minutes of Executive Session held on September 12, 2006.

***Commissioner Kirby left the meeting at 11:38 a.m.**

At approximately 11:38 a.m., the Commission returned to Open Session. Chair Lynch reported that in Executive Session the Commission voted to approve the minutes of the September 12, 2006 Executive Session.

The next order of business was the Director's Report. Executive Director Willever informed that the Staff is in the process of settling non-filing Complaints and that an update on financial disclosure would be provided, along with a full Director's Report, in two meetings' time.

The next order of business was New Business. Commissioner Binder stated that the subcommittees should meet after the next Commission meeting to further review the regulatory proposals and asked the Staff to provide a new list of proposed regulatory changes and priorities. Commissioner Weavill suggested that the Commission as a whole handle further review of the proposals. Chair Lynch agreed. Commissioner Cheit noted that if they were to entertain additional disclosure of familial relationships it would involve a lot of work and should be handled at the subcommittee level.

At approximately 11:44 a.m., upon motion made by Commissioner Weavill and duly seconded by Commissioner Murray, it was unanimously

VOTED: To adjourn the meeting.

Respectfully submitted,

George E. Weavill, Jr.

Secretary