

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

December 12, 2006

The Rhode Island Ethics Commission held its 22nd 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, December 12, 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 Frederick K. Butler*
Richard E. Kirby Ross Cheit**

Also present were Kathleen Managhan, Commission Legal Counsel; Kent A. Willever, Commission Executive Director; Katherine D'Arezzo, Senior Staff Attorney; Staff Attorneys Jason M. Gramitt and Dianne Leyden; and Commission Investigators Peter J. Mancini and Michael Douglas.

At approximately 9:15 a.m., the Chair opened the meeting. The first order of business was to approve the minutes of the Open Session

held on November 28, 2006. . Upon motion made by Commissioner Segovis and duly seconded by Commissioner Binder, it was unanimously

VOTED: To approve the minutes of the Open Session held on November 28, 2006.

***Commissioner Butler arrived at approximately 9:20 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 Frank Corrao, III, a Cranston Zoning Board of Review member. Senior Staff Attorney D'Arezzo presented the Commission Staff recommendation. The petitioner was present. Commissioner Binder stated her agreement with the analysis as to Cullion, but voiced concerns regarding the relationship with the Building Official. In response to Commissioner Cheit, the petitioner informed that the Council's investigation would look at whether information submitted by Cullion was misinterpreted. He noted that the Board has 7 members, 2 of whom already recused due to conflicts, and 2 alternates. In response to Commissioner Kirby, the petitioner stated that the Vista project is not in proximity to the proposed concrete plant.

The petitioner advised that the Board would question the Building Official and some Council members. Commissioner Kirby voiced his concern regarding a builder in that municipality reviewing decisions of the Building Official. Commissioner Weavill concurred and questioned whether the Building Official could be subject to punitive action. In response to Commissioner Weavill, the petitioner stated that he has a close relationship with the Building Official. In response to Commissioner Kirby, the petitioner informed that in his 7 years on the Board he has not sat in review of a permit's issuance. Commissioner Kirby indicated that if a property owner's application were denied by the Building Official and there were an appeal to the Zoning Board he would have concerns about the petitioner participating in reviewing the Building Official's actions given their close relationship. The petitioner added that Vista has only been in business for the past year. In response to Commissioner Segovis, the petitioner stated his belief that the Building Official is supervised by the Mayor.

Upon motion made by Commissioner Cheit and duly seconded by Commissioner Butler, there was discussion. Commissioner Cheit asked to hear from the members if their concerns related to appearance of impropriety issues or actual Code violations. Commissioner Weavill stated his belief that both issues have been raised and noted that the Commission is not required to issue an opinion. He suggested that the petitioner has a continuing business relationship with the Building Official. Commissioner Cheit stated

that the relationship would not constitute a business relationship under the Code. Commissioner Kirby pointed out that the petitioner sits in a quasi-judicial capacity as a Zoning Board member. Commissioner Binder stated that she sees a financial nexus between the petitioner and the Building Official.

Commissioner Butler indicated his belief that the Staff's analysis under the Code is correct but also stated that he shares the same concerns regarding the relationship with the Building Official. Commissioner Cheit concurred. Commissioner Segovis echoed the concerns regarding the relationship and suggested that to allow his participation would send the wrong message. On the original motion it was

VOTED: To issue an advisory opinion, attached hereto, to Frank Corrao, III, a Cranston Zoning Board of Review member.

AYES: Frederick K. Butler and James Lynch, Sr.

NOES: George E. Weavill, Jr., James C. Segovis, Richard E. Kirby, James V. Murray, Ross Cheit and Barbara Binder.

No opinion issued due to a lack of 5 affirmative votes. Senior Staff Attorney D'Arezzo informed the petitioner that the failure to issue an opinion did not necessarily mean that his participation would violate the Code, only that if he chooses to participate he could be subject to

an ethics complaint.

The next advisory opinion was that of Holly Levine, a member of the Board of Trustees for the Middletown Public Library. Staff Attorney Leyden presented the Commission Staff recommendation. The petitioner was not present. In response to Commissioner Butler, Staff Attorney Leyden stated that the petitioner did not provide information as to whether the Board appoints a Library Director. Commissioner Binder suggested that the petitioner's representation that she will not hire library employees or accept any private business from the library be added to the response. Upon motion made by Commissioner Kirby and duly seconded by Commissioner Cheit, it was unanimously

VOTED: To issue an advisory opinion, attached hereto, to Holly Levine, a member of the Board of Trustees for the Middletown Public Library.

The next advisory opinion was that of Bruce W. McIntyre, Deputy Chief Legal Counsel employed by the Rhode Island Department of Health, Division of Legal Services. Staff Attorney Leyden presented the Commission Staff recommendation. She informed that the petitioner was unable to attend the meeting but would be available in January if the Commission had any questions. In response to Chair Lynch, Staff Attorney Leyden stated that the funding was from a federal grant. In response to Commissioner Weavill, she informed that the petitioner first received approval from his department before

proceeding with the opinion request. Upon motion made by Commissioner Butler and duly seconded by Commissioner Binder, it was unanimously

VOTED: To issue an advisory opinion, attached hereto, to Bruce W. McIntyre, Deputy Chief Legal Counsel employed by the Rhode Island Department of Health, Division of Legal Services.

At approximately 9:50 a.m., upon motion made by Commissioner Weavill and duly seconded by Commissioner Kirby, 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 November 28, 2006.

**b.) In re: A. Ralph Mollis,
Complaint No. 2006-6**

**c.) In re: John Fleming, Jr.,
Complaint No. 2006-5**

**d.) In re: Raymond E. Gallison, Jr.
Complaint No. 2006-10**

At approximately 11:02 a.m. the Commission reconvened in Open Session. Chair Lynch reported that in Executive Session the Commission took the following actions: 1) voted to approve the minutes of the Executive Session held on November 28, 2006; 2) approved an Informal Resolution & Settlement of Complaint No. 2006-6, In re: A. Ralph Mollis, and imposed a \$3,000 civil penalty; 3) approved an Informal Resolution & Settlement of Complaint No. 2006-5, In re: John Fleming, Jr., and imposed a \$500 civil penalty; and 4) voted that Complaint No. 2006-10, In re: Raymond E. Gallison, Jr., alleges sufficient facts to support a knowing and willful violation of the Code of Ethics.

The next order of business was a motion to seal the minutes of the Executive Session held on December 12, 2006. Upon motion made by Commissioner Weavill and duly seconded by Commissioner Binder, it was unanimously,

VOTED: To seal the minutes of the Executive Session held on December 12, 2006.

The next order of business was the Director's Report. Executive Director Willever reported that there are 8 advisory opinions and 5 complaints pending. He advised that the next meeting would be January 9th, which is scheduled as a public hearing on the proposed regulations. In response to Commissioner Weavill, Senior Staff

Attorney D'Arezzo stated that she would be contacting the members individually to ascertain their availability for potential adjudication dates.

The next order of business was New Business. There being none, at approximately 11:10 a.m., upon motion made by Commissioner Kirby and duly seconded by Commissioner Binder, it was unanimously

VOTED: To adjourn the meeting.

Respectfully submitted,

George E. Weavill, Jr.
Secretary