

# **MINUTES OF THE OPEN SESSION**

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

**March 20, 2007**

**The Rhode Island Ethics Commission held its 5th meeting of 2007 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 20, 2007, pursuant to the notice published at the Commission Headquarters and at the State House Library.**

**The following Commissioners were present:**

**Barbara Binder, Vice Chair Frederick K. Butler**

**Richard E. Kirby Ross Cheit**

**James C. Segovis**

**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 L. Leyden; and Commission Investigators Steven T. Cross, Peter J. Mancini and Michael Douglas.**

**At approximately 9:20 a.m., the Vice Chair opened the meeting. The first order of business was to approve the minutes of the Open Session held on March 6, 2007. Upon motion made by**

**Commissioner Segovis and duly seconded by Commissioner Butler, it was unanimously**

**VOTED: To approve the minutes of the Open Session held on  
March 6, 2007.**

**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 T. Joseph Almond, the Lincoln Town Administrator. Staff Attorney Leyden presented the Commission Staff recommendation. The petitioner was present and clarified that the present and prior collective bargaining agreements have not addressed current retirees, only future retirees. In response to Commissioner Segovis, he stated that he would recuse in the event that current retirees were addressed. Commissioner Segovis requested that the opinion reflect the petitioner's representation regarding recusal. Upon motion made by Commissioner Butler and duly seconded by Commissioner Kirby, it was unanimously**

**VOTED: To issue an advisory opinion, as amended, attached hereto, to T. Joseph Almond, the Lincoln Town Administrator.**

**The next advisory opinion was that of Jeffrey T. Britt, a former**

**Commissioner of the State Investment Commission. Staff Attorney Leyden advised that the Commission previously tabled the matter so that the petitioner could be present to answer questions. She informed that she made a change to the earlier draft opinion to reflect in the response that the petitioner may not lobby the State Investment Commission or any of its members. The petitioner was present and expressed that he understood the draft opinion. In response to Commissioner Segovis, he stated that he lobbies the EDC on behalf of Tim Hortons and also lobbies the General Assembly. Commissioner Segovis questioned whether he had been involved in any legislation with the State Investment Commission that potentially could still be before the legislature. The petitioner replied that he was not involved in legislative matters in his thirteen months on the Investment Commission. He indicated that after he resigned he was approached by a firm that came before the Commission.**

**Commissioner Binder inquired whether the petitioner may lobby the Deputy Treasurer or other staff since the General Treasurer serves on the Investment Commission. Staff Attorney Leyden stated that she added language to the prior draft opinion to address that issue. She explained that the petitioner may lobby the Treasurer on other matters and would be allowed to lobby the other individuals on matters outside the Investment Commission's jurisdiction. In response to Commissioner Binder, Staff Attorney Leyden read language to be included in the opinion addressing the prohibition on lobbying members or staff on matters within the Investment**

**Commission's jurisdiction. Upon motion made by Commissioner Kirby and duly seconded by Commissioner Butler, it was unanimously**

**VOTED: To issue an advisory opinion, attached hereto, to Jeffrey T. Britt, a former Commissioner of the State Investment Commission.**

**The next advisory opinion was that of William A. DiLibero, Esq., the Hopkinton Town manager. Staff Attorney Leyden presented the Commission Staff recommendation. The petitioner was present and questioned whether, once a permanent judge is appointed, he may act as a substitute in the event that judge were unavailable. In response to Commissioner Segovis, he stated that presently all matters go to district or superior court. In response to Commissioner Kirby, he stated that Hopkinton is governed by a Home Rule Charter. Commissioner Kirby noted that many charters state that nothing shall prevent the town manager from serving in the capacity of another department head. He also suggested that the petitioner check the judicial canons of ethics because if he were to serve in a managerial capacity and appointed an official such as the building official, it could subject him to a challenge. Upon motion made by Commissioner Kirby and duly seconded by Commissioner Butler, it was unanimously**

**VOTED: To issue an advisory opinion, attached hereto, to William**

**A. DiLibero, Esq., the Hopkinton Town manager.**

**The next advisory opinion was that of Calvin A. Ellis, a member of the Exeter Town Council. Staff Attorney Leyden informed that the petitioner, who was present, provided the Staff with a dismissal stipulation with prejudice. She stated her opinion that the dismissal of the lawsuit renders the issue moot. The Commission did not issue an advisory opinion.**

**At approximately 9:43 a.m., upon motion made by Commissioner Butler 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  
March 6, 2007.**

**b.) Motion to return to Open Session.**

**The Commission reconvened in Open Session at approximately 9:46 a.m. The Vice Chair reported that the Commission voted to approve minutes of the Executive Session held on March 6, 2007.**

**The next order of business was the Director's Report. Executive**

**Director Willever reported that the Commission had a budget hearing before the House Finance Committee on March 8th and it would likely receive level funding, as it has in the past few years. He noted that the Commission has asked for additional funds in the areas of computers, staff training and travel. He advised that he, Chief Investigator Cross and Staff Attorney Gramitt have been asked to give a presentation at the next COGEL conference on the interaction with state and federal law enforcement agencies. In response to Commissioner Segovis' inquiry regarding funding for online ethics training, Senior Staff Attorney D'Arezzo informed that the Commission is essentially looking at what amounts to level funding for FY 07 Revised. She explained that although there is a projected deficit of approximately \$20,000 in operating costs this year, there will be a surplus in personnel costs due to a staff member's extended maternity leave. However, she advised that this projected shortfall presents a problem for FY 08. Director Willever advised that there are six Complaints and fifteen advisory opinions pending.**

**The next order of business was New Business. There being none, at approximately 10:00 a.m., upon motion made by Commissioner Cheit and duly seconded by Commissioner Segovis, it was unanimously**

**VOTED: To adjourn the meeting.**

**Respectfully submitted,**

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**Barbara Binder**

**Vice Chair**