

MINUTES OF THE OPEN SESSION

OF THE RHODE ISLAND ETHICS COMMISSION

July 20, 2010

The Rhode Island Ethics Commission held its 13th meeting of 2010 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, July 22, 2010, pursuant to the notice published at the Commission Headquarters and at the State House Library.

The following Commissioners were present:

Barbara R. Binder, Chair Mark B. Heffner

J. William W. Harsch, Secretary John D. Lynch, Jr.

Edward A. Magro

Also present were Edmund L. Alves, Jr., Commission Legal Counsel; Kent A. Willever, Commission Executive Director; Katherine D'Arezzo, Senior Staff Attorney; Staff Attorneys Jason Gramitt, Dianne L. Leyden and Esme DeVault; and Commission Investigators Steven T. Cross and Peter J. Mancini.

At 9:00 a.m., the Chair opened the meeting. The first order of business was a motion to approve minutes of the Open Session held on June 1, 2010. Upon motion made by Commissioner Lynch and

duly seconded by Commissioner Heffner, it was

VOTED: To approve minutes of the Open Session held on June 1, 2010.

AYES: Edward A. Magro, Mark B. Heffner and John D. Lynch, Jr.

ABSTENTIONS: Barbara R. Binder and J. William W. Harsch.

The next order of business was a motion to approve minutes of the Open Session held on June 22, 2010. Upon motion made by Commissioner Lynch and duly seconded by Commissioner Harsch, it was

VOTED: To approve minutes of the Open Session held on June 22, 2010.

AYES: J. William W. Harsch, John D. Lynch, Jr. and Barbara R. Binder.

ABSTENTIONS: Mark B. Heffner and Edward A. Magro.

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 Jeanne-Marie DiMasi, an Administrative Assistant for the Rhode Island Secretary of State, Division of Business Services. Commissioner Lynch disclosed that he had represented the Petitioner as a witness in a Superior Court case three or four years ago, but he stated that he has not represented her since then and does not believe that he needs to recuse. Staff Attorney Gramitt presented the Commission Staff recommendation. The Petitioner was present. Upon motion made by Commissioner Harsch and duly seconded by Commissioner Magro, it was unanimously

VOTED: To issue an advisory opinion, attached hereto, to Jeanne-Marie DiMasi, an Administrative Assistant for the Rhode Island Secretary of State, Division of Business Services.

The next advisory opinion was that of David A. Coughlin, a member of the Pawtucket School Committee, Staff Attorney DeVault presented the Commission Staff recommendation. The Petitioner was not present. Upon motion made by Commissioner Lynch and duly seconded by Commissioner Magro, it was unanimously

VOTED: To issue an advisory opinion, attached hereto, to David A. Coughlin, a member of the Pawtucket School Committee.

At 9:12 a.m., upon motion made by Commissioner Heffner and duly seconded by Commissioner Magro, it was unanimously

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

a.) Motion to approve minutes of Executive Session held on June 1, 2010.

b.) Motion to approve minutes of Executive Session held on June 22, 2010.

**c.) In re: Charles D. Moreau,
Complaint No. 2010-2**

**d.) In re: Stephen Durkee,
Complaint No. 2010-3**

**e.) In re: Stephen Durkee,
Complaint No. 2010-4**

f.) Motion to return to Open Session.

At 9:17 a.m., the Commission returned to Open Session. The next order of business was review and consideration of proposed General Commission Advisory (GCA): Architect Members of State and Local Historic Preservation Commissions Appearing before their Respective Agencies. Staff Attorney DeVault informed that there had been discussion by the Commission, as well as public comment, at

the last meeting regarding what the definition of “historic architect” should be if the Commission votes to adopt a replacement to GCA 8. She noted that the draft proposal provided to the Commission contains language in its footnote that articulates the qualifications the Federal Parks Service utilizes for qualified historic architects. In response to Chair Binder, Staff Attorney DeVault agreed that the Commission is stating that being a historic architect is essentially a per se exception. Upon motion made by Commissioner Harsch and duly seconded by Commissioner Lynch, it was unanimously

VOTED: To approve (1st vote) the proposed General Commission Advisory (GCA): Architect Members of State and Local Historic Preservation Commissions Appearing before their Respective Agencies, and to obtain public comment on the proposal.

The next order of business was a Legislative Update. Staff Attorney Gramitt presented the Commission with a memorandum explaining the status of all items affecting the Commission as of the end of the legislative session.

The next order of business was the Director’s Report. Executive Director Willever advised that there are seven complaints and one advisory opinion request pending. He reported that there is one APA appeal pending and four formal APRA requests have been granted since the last meeting.

The next order of business was New Business proposed for future Commission agendas and general comment from the Commission. Chair Binder stated that the Commission will resume its full agenda in September. Commissioner Heffner inquired as to the status of the Commission's discussion regarding Probable Cause. Chair Binder advised that the Commission will take the issue up again in September.

At 9:27 a.m., upon motion made by Commissioner Magro and duly seconded by Commissioner Lynch, it was unanimously

VOTED: To return to Executive Session.

At approximately 10:50 a.m., the Commission reconvened in Open Session. The next order of business was a motion to seal the minutes of the Executive Session held on July 20, 2010. Upon motion made by Commissioner Lynch and duly seconded by Commissioner Magro, it was unanimously

VOTED: To seal the minutes of the Executive Session held on July 20, 2010.

Chair Binder reported that the Commission took the following actions in Executive Session: 1) approved minutes of the Executive Session held on June 1, 2010; 2) approved minutes of the Executive session held on June 22, 2010; 3) granted an extension of time for completion

**of the investigation in In re: Charles D. Moreau, Complaint No. 2010-2;
4) approved an Informal Resolution & Settlement in In re: Stephen
Durkee, Complaint No. 2010-3; and 5) determined that probable cause
does not exist to support a finding of a knowing and willful violation
of the Code of Ethics in In re: Stephen Durkee, Complaint No. 2010-4.**

**At approximately 10:52 a.m., upon motion made and duly seconded, it
was unanimously**

VOTED: To adjourn.

Respectfully submitted,

**J. William W. Harsch
Secretary**