

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

**April 17, 2012**

**The Rhode Island Ethics Commission held its 6th meeting of 2012 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, April 17, 2012, pursuant to the notice published at the Commission Headquarters, the State House Library, and electronically with the Rhode Island Secretary of State.**

**The following Commissioners were present:**

**Ross Cheit, Chair    Frederick K. Butler**

**Deborah M. Cerullo SSND, Vice Chair Mark B. Heffner**

**J. William W. Harsch, Secretary Edward A. Magro**

**Also present were Edmund L. Alves, Jr., Commission Legal Counsel; Kent A. Willever, Commission Executive Director; Staff Attorneys Jason Gramitt, Nicole B. DiLibero and Amy C. Stewart; and Commission Investigators Steven T. Cross, Peter J. Mancini and Gary V. Petrarca.**

**At 9:02 a.m. the Chair opened the meeting. The first order of business was a motion to approve minutes of the Open Session held**

**on April 3, 2012. Upon motion made by Commissioner Heffner and duly seconded by Commissioner Butler, it was**

**VOTED: To approve the minutes of the Open Session held on April 3, 2012.**

**AYES: Frederick K. Butler; Mark B. Heffner; Deborah M. Cerullo; Ross Cheit.**

**ABSTENTIONS: J. William W. Harsch; 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:**

**Lisa A. DiBello, a member of the Charlestown Town Council, a municipal elected position, requesting an advisory opinion regarding whether the Code of Ethics prohibits her participation in the Town Council's consideration of the Town Administrator's recent job performance, given that she has a lawsuit pending in Superior Court in which she has named the Town Administrator, among others, as a defendant in both his individual and official capacities.**

**Staff Attorney Stewart presented the Commission Staff**

recommendation. The Petitioner was present. In response to Chair Cheit, Staff Attorney Stewart informed that the Petitioner's pending lawsuit involves allegations occurring around her termination in May of 2010 and before. She stated that the issues regarding the Town Administrator's job performance relate to conduct occurring since December 2010. In response to Commissioner Heffner, the Petitioner stated that she did not know who put the review of the Town Administrator's job performance on the most recent agenda. She explained that it was customary for the Town Council to review the Town Administrator's job performance.

Commissioner Heffner asked if it was conceivable that Town Council discussions could include issues relating to the Town Administrator's actions prior to December 2010. The Petitioner responded that she can only judge the actions of the Town Administrator for the duration of her tenure as a Town Council member. In response to Chair Cheit, the Petitioner stated that she could fairly and objectively review the Town Administrator's job performance, notwithstanding her pending lawsuit.

In response to Commissioner Heffner, the Petitioner stated that it is her duty as a member of the Town Council, elected by the people, to evaluate the job performance of the Town Administrator. She stated that she is not friends with the Town Administrator and she said that she neither likes nor hates him. Upon motion made by Commissioner Heffner and duly seconded by Commissioner Magro, it was

**unanimously**

**VOTED: To issue an advisory opinion, attached hereto, to Lisa DiBello, a member of the Charlestown Town Council.**

**The next advisory opinion was that of:**

**David B. Patten, a member of the Westerly School Committee, a municipal elected position, requesting an advisory opinion regarding whether the Code of Ethics prohibits his employer, Collaborative Partners, from bidding on and accepting a contract to provide consulting services to the Westerly School Department relative to an Elementary School Facilities Needs Assessment.**

**Staff Attorney DiLibero presented the Commission Staff recommendation. The Petitioner was not present. In response to Chair Cheit, Staff Attorney DiLibero informed that the Petitioner represents that the finance department prepared the invitation for bids, with no participation by the School Committee. In response to Commissioner Harsch, Staff Attorney DiLibero stated that the Petitioner began his employment with Collaborative Partners in October of 2011 and that this request for proposals was made public in April of 2012.**

**In response to Chair Cheit, Staff Attorney DiLibero stated that the Petitioner initially understood that this situation would require him to**

**recuse from certain matters. She stated that as they discussed each condition necessitating recusal, the Petitioner agreed and understood why it was required. Upon motion made by Commissioner Magro and duly second by Commissioner Butler, it was unanimously**

**VOTED: To issue an advisory opinion, attached hereto, to David B. Patten, a member of the Westerly School Committee.**

**The next order of business was a Financial Disclosure, Online Filing Update. Staff Attorney Gramitt stated that as of this morning there were 882 online filings, combining with the paper filings for a total of approximately 1400 filed financial disclosure statements. He stated that with over a week until the deadline, the current compliance rate is 42%. He announced that there were no major glitches in the online filing system. He noted that next Friday, April 27th, is the filing deadline.**

**The next order of business was a Legislative Update. Staff Attorney Gramitt stated that he did attend the House Judiciary Committee meeting which he mentioned at the last meeting. He stated that he testified at the hearing regarding the House resolution to restore the Ethics Commission's jurisdiction over core legislative acts. He stated that the bill was held for further study and that he will keep the Commission updated on the progress of the bill.**

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

**Director Willever reported that there are five (5) complaints, two (2) advisory opinions, and one (1) litigation matter pending. He also stated that five (5) APRA requests have been granted since the last meeting.**

**The next order of business was New Business. There was none.**

**At approximately 9:28 a.m., upon motion made by Commissioner Cerullo and duly seconded by Commissioner Magro, it was unanimously**

**VOTED: To go into Executive Session, to wit:**

**a) Motion to approve minutes of Executive Session held on April 3, 2012, pursuant to R.I. Gen. Laws § 42-46-5(a)(2) and (4).**

**b) Joseph S. Larisa, Jr. v. Rhode Island Ethics Commission et al., C.A. No. PC 11-6938, pursuant to R.I. Gen. Laws § 42-46-5(a)(2).**

**The Commission reconvened in Open Session at approximately 9:29 a.m. Chair Cheit reported that the Commission took the following actions in Executive Session:**

**1) Voted to approve the minutes of the Executive Session held on April 3, 2012 with four (4) affirmative votes and two (2) abstentions.**

**[Reporter's Note – The vote was as follows:**

**AYES: Frederick K. Butler; Mark B. Heffner; Deborah M. Cerullo;**

**Ross Cheit.**

**ABSTENTIONS: J. William W. Harsch; Edward A. Magro.]**

**2) No discussion in the litigation matter, Joseph S. Larisa, Jr. v. Rhode Island Ethics Commission et al., C.A. No. PC 11-6938.**

**The next order of business was a motion to seal the minutes of the April 17, 2012 Executive Session. Upon motion made by Commissioner Butler and duly seconded by Commissioner Magro, it was unanimously**

**VOTED: To seal the minutes of the April 17, 2012 Executive Session.**

**At 9:30 a.m., upon motion made and duly seconded, it was unanimously**

**VOTED: To adjourn.**

**Respectfully**

**submitted,**

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**Harsch**

**J. William W.**

**Secretary**