

MINUTES OF THE OPEN SESSION

OF THE RHODE ISLAND ETHICS COMMISSION

December 4, 2012

The Rhode Island Ethics Commission held its 16th 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, December 4, 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

John D. Lynch, Jr., Secretary 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 Attorney Amy C. Stewart; and Commission Investigators Steven T. Cross, Peter J. Mancini and Gary V. Petrarca.

At 9:03 a.m. the Chair opened the meeting. The first order of business was the approval of minutes of the Open Session held on

November 20, 2012. Upon motion made by Commissioner Lynch and duly seconded by Commissioner Magro, it was

VOTED: To approve minutes of the Open Session held on November 20, 2012.

AYES: Edward A. Magro; John D. Lynch, Jr.; Deborah M. Cerullo; Mark B. Heffner; Ross Cheit.

ABSTENTIONS: Frederick K. Butler.

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:

Shelley Pezza, a member of both the Foster School Committee and the Foster- Gloucester Regional School Committee, requesting an advisory opinion regarding whether the Code of Ethics prohibits her participation in matters before either School Committee that involve Sodexo, Inc., the school lunch contractor for Foster and Gloucester, given that her family farm entered into an agreement with Sodexo to grow vegetables for the school lunch program.

Staff Attorney Stewart presented the Commission Staff

recommendation. The Petitioner was not present. Upon motion made by Commissioner Magro and duly seconded by Commissioner Butler, it was unanimously

VOTED: To issue an advisory opinion, attached hereto, to Shelley Pezza, a member of both the Foster School Committee and the Foster-Glocester Regional School Committee.

The next advisory opinion was that of:

John Karmozyn, Jr., a member of the Burrillville School Committee, requesting an advisory opinion regarding whether the Code of Ethics prohibits him from serving on the Burrillville School Committee, given that his spouse is also a member of the School Committee.

Staff Attorney Stewart presented the Commission Staff recommendation. The Petitioner was not present. In response to Chair Cheit, Staff Attorney Stewart informed that the Petitioner had first contacted Commission Staff in June 2012 regarding this issue, at which time the Petitioner was informed that it was premature to ask for an advisory opinion until he was elected to office. Chair Cheit stated that he was concerned that a person who is thinking of running for office cannot receive advice from the Commission until they are actually elected. Staff Attorney Stewart replied that she had substantive discussions about this matter with the Petitioner in June and informed him that, based upon prior advisory opinions, it was

likely that he and his wife could serve together on the same board. She further stated that she advised the Petitioner to seek an advisory opinion if and when he was elected, which he did. She noted that this is the first advisory opinion to discuss Regulation 7004, which was adopted in 2008.

Commissioner Heffner questioned under what circumstances a person would not be able to run for elected office when their spouse sits on the same board. He stated that there seem to be no such circumstances and, therefore, suggested that Staff be prepared to provide an answer. In response to Commissioner Heffner, Executive Director Willever stated that this issue can be included among those items to be emphasized with municipal solicitors as part of the Staff's effort to provide targeted training and information to solicitors, an issue that had been raised at the last meeting. He stated that Staff Attorney Jason Gramitt will update the Commission in January about plans for a CLE that will target municipal solicitors. Commissioner Cerullo asked if there would be discussion regarding whether a General Commission Advisory ("GCA") was needed for solicitors.

Commissioner Heffner stated that he wanted to make it clear that the Commission does not interfere with the electoral process and questioned whether a GCA on that point would be helpful. Staff Attorney Stewart replied that it would not provide individual advice and a petitioner may not want to rely on a GCA alone. Commissioner Cerullo and Chair Cheit both stated that it would be helpful for a

candidate to get formal advice prior to being elected. Chair Cheit suggested that referring someone to a GCA is different than referring them to another's advisory opinion. Legal Counsel Alves stated that if the Commission took steps to address this it could either: 1) direct that candidates for office are eligible to get an advisory opinion; or 2) issue a GCA. Discussion ensued regarding the effectiveness of a GCA. Chair Cheit instructed Staff to report back to the Commission at later date regarding whether a GCA on this topic would be a good idea.

Upon motion made by Commissioner Butler and duly seconded by Commissioner Heffner, it was unanimously

VOTED: To issue an advisory opinion, attached hereto, to John Karmozyn, Jr., a member of the Burrillville School Committee.

The next order of business was the Director's Report. Executive Director Willever reported that there are nine (9) complaints, two (2) advisory opinions and one (1) litigation matter pending. He also stated that three (3) APRA requests were granted since the last meeting. In response to Chair Cheit, Executive Director Willever stated that five (5) of the complaints are non-filing cases.

The next order of business was review and approval of tentative 2013 Commission meeting schedule. Upon motion made by Commissioner Cerullo and duly seconded by Commissioner Lynch, it was

unanimously

VOTED: To approve the tentative 2013 Commission meeting schedule.

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

VOTED: To go into Executive Session, to wit:

a) Motion to approve minutes of Executive Session held on November 20, 2012, pursuant to R.I. Gen. Laws § 42-46-5(a)(2) and (4).

b) Discussion re status of pending litigation: Joseph S. Larisa, Jr. v. Rhode Island Ethics Commission et al., C.A. No. PC11-6938, pursuant to R.I. Gen. Laws § 42-46-5(a)(2).

The Commission reconvened in Open Session at approximately 9:32 a.m.

The next order of business was a motion to seal the minutes of the December 4, 2012, Executive Session. Upon motion made by Commissioner Magro and duly seconded by Commissioner Lynch, it

was unanimously

VOTED: To seal the minutes of the December 4, 2012, Executive Session.

Chair Cheit reported that the Commission took the following actions in Executive Session:

- 1. Unanimously voted to extend time to approve the minutes of the Executive Session held on November 20, 2012.**
- 2. Received an update in the Larisa litigation matter.**

The next order of business was New Business and general comments from the Commission. Executive Director Willever asked if the Commission still wanted to return to the statute of limitation discussion in the New Year. Chair Cheit replied that it should be put back on the agenda in due course but not necessarily at the first meeting.

At 9:35 a.m., upon motion made by Commissioner Butler and duly seconded by Commissioner Magro, it was unanimously

VOTED: To adjourn.

Respectfully

submitted,

John D. Lynch, Jr.
Secretary