

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

**October 8, 2013**

**The Rhode Island Ethics Commission held its 11th meeting of 2013 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, October 8, 2013, 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   James V. Murray  
John D. Lynch, Jr., Secretary   Robert A. Salk**

**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, 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 the approval of minutes of the Open Session held on**

**September 24, 2013. Upon motion made by Commissioner Murray and duly seconded by Commissioner Salk, it was**

**VOTED: To approve minutes of the Open Session held on September 24, 2013.**

**AYES: James V. Murray; Robert A. Salk; Ross Cheit.**

**ABSTENTIONS: John D. Lynch, Jr.; Deborah M. Cerullo; 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:**

**Scott R. Schmitt, a member of the Cumberland Town Council, requesting an advisory opinion regarding whether he is prohibited by the Code of Ethics from participating when an attorney, who is his spouse's business associate, represents another person before the Town Council.**

**Staff Attorney Stewart presented the Commission Staff recommendation. The Petitioner was present. In response to Commissioner Cerullo, the Petitioner stated that the income**

generated by his spouse's rental properties does at some point become household income. In response to Commissioner Salk, the Petitioner stated that he did not see how the attorneys could receive any advantage before the Town Council as a result of their tenancy at his spouse's property. The Petitioner informed that he has no intention of reacquiring ownership in this business while he is on the Town Council. He stated that his former ownership interest was for estate planning purposes.

Staff Attorney Stewart stated that the rental agreement between his spouse and the law firm is fixed in a lease and rent will be received according to the terms of that contract. Commissioner Salk expressed concerns related to the fact that the attorney who appears before the Petitioner pays rent to his spouse which flows to the family as income. Chair Cheit suggested that those concerns are more about independence of judgment rather than conflicts of interest. He stated that it was not a foreseeable consequence of the Petitioner's official action that his spouse would be impacted when her tenant appeared on behalf of a client before the Town Council. The Petitioner noted that he recused from a controversial matter involving his spouse's business associate but stated that he would have voted against the matter if he could have participated. Upon motion made by Commissioner Butler and duly seconded by Commissioner Lynch, it was

**VOTED:** To issue an advisory opinion, attached hereto, to Scott R.

**Schmitt, a member of the Cumberland Town Council.**

**AYES: James V. Murray; John D. Lynch, Jr.; Deborah M. Cerullo; Frederick K. Butler; Ross Cheit.**

**NOES: Robert A. Salk.**

**Commissioner Cerullo noted while voting that she had some concerns regarding the appearance of impropriety but given these specific facts she voted to approve.**

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

**Richard A. Licht, the Director of the Rhode Island Department of Administration, requesting an advisory opinion regarding whether the Code of Ethics prohibits him from seeking and accepting an appointment to the Rhode Island Superior Court.**

**Staff Attorney Stewart presented the Commission Staff recommendation. The Petitioner was present. The Petitioner stated that he concurred with the Staff's recommendation that the statute makes a clear distinction between the staff member of a state elected official or of the general assembly and the position of department director. Chair Cheit stated that he agreed with the legal analysis in the draft opinion. However, he noted that he disagreed with the Petitioner's characterization of the revolving door statute as penal in**

**nature. He stated that the revolving door provisions are restrictions, not punishments. Upon motion made by Commissioner Murray and duly seconded by Commissioner Lynch, it was unanimously**

**VOTED: To issue an advisory opinion, attached hereto, to Richard A. Licht, the Director of the Rhode Island Department of Administration.**

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

**Kimberlie J. Rayner-Russell, a member of the Westerly Harbor Management Commission, requesting an advisory opinion regarding whether any conflicts of interest arise under the Code of Ethics by reason of her part-time private employment with the Watch Hill Conservancy.**

**Staff Attorney Stewart presented the Commission Staff recommendation. The Petitioner was present. Upon motion made by Commissioner Lynch and duly seconded by Commission Cerullo, it was unanimously**

**VOTED: To issue an advisory opinion, attached hereto, to Kimberlie J. Rayner-Russell, a member of the Westerly Harbor Management Commission.**

**The next order of business was the Election of Officers. Upon motion**

**made by Commissioner Lynch and duly seconded by Commissioner Butler, it was**

**VOTED: To elect Ross Cheit as Chairperson.**

**AYES: James V. Murray; Robert A. Salk; Frederick K. Butler; John D. Lynch, Jr.; Deborah M. Cerullo.**

**ABSTENTION: Ross Cheit.**

**Upon motion made by Commissioner Lynch and duly seconded by Commissioner Cheit, it was**

**VOTED: To elect Deborah M. Cerullo as Vice Chairperson.**

**AYES: James V. Murray; Robert A. Salk; Frederick K. Butler; John D. Lynch, Jr.; Ross Cheit.**

**ABSTENTION: Deborah M. Cerullo.**

**Upon motion made by Commissioner Cerullo and duly seconded by Commissioner Butler, it was**

**VOTED: To elect John D. Lynch, Jr. as Secretary.**

**AYES: James V. Murray; Robert A. Salk; Frederick K. Butler; Deborah**

**M. Cerullo; Ross Cheit.**

**ABSTENTION: John D. Lynch, Jr.**

**The next order of business was the Director's Report. Executive Director Willever reported that there were two (2) complaints and one (1) litigation matter pending. He stated that six (6) APRA requests were granted since the last meeting, all of which were completed within one (1) business day.**

**At 9:33 a.m., upon motion made and duly seconded, it was unanimously**

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

**a.) Motion to approve minutes of Executive Session held on September 24, 2013, pursuant to R.I. Gen. Laws § 42-46-5(a)(2) and (4).**

**The Commission reconvened in Open Session at approximately 9:34 a.m.**

**Chair Cheit reported that during Executive Session, the Commission voted to approve the minutes of the Executive Session held on September 24, 2013.**

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

**AYES: James V. Murray; Robert Salk; Ross Cheit.**

**ABSTENTIONS: John D. Lynch, Jr.; Deborah M. Cerullo; Frederick K. Butler.]**

**The next order of business was New Business. There being none, at 9:34 a.m. upon motion made by Commissioner Cerullo and duly seconded by Commissioner Lynch, it was unanimously**

**VOTED: To adjourn.**

**Respectfully**

**submitted,**

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**John D. Lynch, Jr.  
Secretary**