

MINUTES OF THE OPEN SESSION

OF THE RHODE ISLAND ETHICS COMMISSION

May 13, 2014

The Rhode Island Ethics Commission held its 7th meeting of 2014 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 May 13, 2014, pursuant to the notice published at the Commission offices, the State House Library, and electronically with the Rhode Island Secretary of State.

The following Commissioners were present:

Ross Cheit, Chair Mark B. Heffner

John D. Lynch, Jr., Secretary James V. Murray

Frederick K. Butler

Also present were Edmund L. Alves, Jr., Commission Legal Counsel; Kent A. Willever, Commission Executive Director; Katherine D'Arezzo, Senior Staff Attorney; Jason Gramitt, Education Coordinator/Staff Attorney; Staff Attorneys Nicole B. DiLibero and Amy C. Stewart; and Commission Investigators Steven Cross and Peter J. Mancini.

At 9:07 a.m. the Chair opened the meeting. The first order of business was:

Approval of minutes of the Open Session held on April 29, 2014.

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

VOTED: To approve minutes of the Open Session held on April 29, 2014.

AYES: Mark B. Heffner; Ross Cheit.

ABSTENTIONS: James V. Murray; John D. Lynch, Jr.; Frederick K. Butler.

The next order of business was:

Advisory Opinions.

The advisory opinions were based on draft advisory opinions prepared by 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:

Janet L. Coit, the Director of the Rhode Island Department of Environmental Management (“RIDEM”), requesting an advisory opinion regarding the proper management of any conflicts of interest

between her public duties and her potential simultaneous service as a Director of the Rhode Island Boy Scouts.

Staff Attorney Gramitt presented the Commission Staff recommendation. The Petitioner was present along with Mary E. Kay, Esq., Executive Counsel at RIDEM. The Petitioner also asked whether the Code would prohibit her from fundraising for the Boy Scouts. Staff Attorney Gramitt stated that the Petitioner is prohibited by the Code of Ethics regulation on transactions with subordinates from soliciting donations from anyone whom she supervises at RIDEM, including RIDEM employees, vendors and contractors. Upon motion made by Commissioner Murray and duly seconded by Commissioner Lynch, it was unanimously

VOTED: To issue an advisory opinion, attached hereto, to Janet L. Coit, Director of the Rhode Island Department of Environmental Management.

The next advisory opinion was that of:

Kevin Maloney, a member of the North Kingstown Town Council, requesting an advisory opinion regarding whether the Code of Ethics prohibits his participation in the Town Council's consideration of proposed Comprehensive Plan and Zoning Ordinance amendments relative to the Preserve at Rolling Greens development plan, given that his primary residence is located in an abutting subdivision.

Staff Attorney Stewart presented the Commission Staff recommendation. The Petitioner was present. Staff Attorney Stewart explained that, in accordance with the Commission's instructions at the previous meeting, two options were being presented for their consideration. She stated that both options find that there is a financial impact; however, Option A applies the class exception and advises that the Petitioner may participate while Option B declines to apply the class exception and requires recusal.

Discussion of Option A ensued. Chair Cheit stated that the unique circumstance here is that the Petitioner and the other property owners in his subdivision have a shared interest in the common land of their subdivision. He noted that it was the common land that generated the abutter's notice. Commissioner Butler stated that the common land abutting the Rolling Greens Golf Course adds to the buffer zone of open space between the subdivision and the proposed compact village development. The Petitioner added that development of the common land is restricted by a conservation easement. Chair Cheit stated that any financial impact on all of the houses in this subdivision resulting from this proposed development is speculative. Upon motion made by Commissioner Butler and duly seconded by Commissioner Lynch, it was unanimously

VOTED: To issue Option A as an advisory opinion, attached hereto, to Kevin Maloney, a member of the North Kingstown Town Council.

The final advisory opinion was that of:

Paulette D. Hamilton, the Town Administrator for the Town of North Smithfield, requesting an advisory opinion regarding whether the Code of Ethics prohibits her from initiating and, if approved by the Town Council, receiving a longevity payment from the Town that is awarded to all employees after five years of service.

Staff Attorney Gramitt presented the Commission Staff recommendation. The Petitioner was not present. In response to Chair Cheit, Staff Attorney Gramitt stated that the five year longevity payment was also part of the Town's former collective bargaining agreement that was negotiated prior to the Petitioner's initial election to the position of Town Administrator. Commissioner Lynch noted that the Petitioner's letter stated that a prior Town Administrator who served for five years also received a longevity payment. Upon motion made by Commissioner Heffner and duly seconded by Commissioner Murray, it was unanimously

VOTED: To issue an advisory opinion, attached hereto, to Paulette D. Hamilton, the Town Administrator for the Town of North Smithfield.

The next order of business was:

Legislative Update.

Staff Attorney Gramitt informed that he attended a hearing before the House Judiciary Committee on April 29, 2014, and provided testimony regarding H7593. He noted that, upon the advice of Commissioner Heffner, he presented the Committee with specific examples of how prior advisory opinions have applied the class exception to members of the General Assembly. He informed that Steve Brown from the RIACLU testified in opposition. He stated that H7593 was held for further study.

Discussion ensued about S2824 and what the next amended version of the legislation might look like. Staff Attorney Gramitt stated that it was just speculation but the amendments might address the issue of whether there is a right to a jury trial and perhaps clarify the standard of review on appeal. Commissioner Lynch suggested looking at the Superior Court Rules of Practice with regard to Magistrate Appeals as a similar potential standard of review. Staff Attorney Gramitt stated that he would keep the Commission informed as to any future progress with S2824.

The next order of business was:

Director's Report.

Executive Director Willever reported that there were five (5) advisory opinions, (1) complaint, and one (1) litigation matter pending. He

stated that eighteen (18) APRA requests were granted since the last meeting, all of which were completed within one (1) business day. He also announced that Staff Attorney DiLibero will be leaving the Commission to accept a position with the Rhode Island Department of Children, Youth & Families. He complimented her on the fine work she has done for the Commission. Chair Cheit thanked Staff Attorney DiLibero for her excellent work and wished her congratulations.

Chair Cheit announced that the adjudication in the matter of In re: Richard P. Martin, Complaint No. NF2013-2 has passed.

The next order of business was:

Annual Discussion and Potential vote regarding Legal Counsel's Contract.

Legal Counsel Alves waived his right to have this matter discussed in Executive Session. Discussion ensued. All of the Commissioners stated that they were in favor of extending Legal Counsel Alves' contract. Upon motion made by Commissioner Murray and duly seconded by Commissioner Lynch, it was unanimously

VOTED: To renew Legal Counsel's contract for another year.

The next order of business was:

Approval of the minutes of the Executive Session held on April 29, 2014.

Upon motion made by Commissioner Heffner and duly seconded by Chair Cheit, it was

VOTED: To approve the minutes of the Executive Session held on April 29, 2014.

AYES: Mark B. Heffner; Ross Cheit.

ABSTENTIONS: James V. Murray; John D. Lynch, Jr.; Frederick K. Butler.

[Reporter's note: The Commission waived going into Executive Session because the only remaining agenda item was approval of the minutes.]

The final order of business was New Business. There being none, at 9:59 a.m. upon motion made by Commissioner Murray and duly seconded by Commissioner Butler, it was unanimously

VOTED: To adjourn.

Respectfully

submitted,

John D. Lynch, Jr.

Secretary