

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

August 19, 2014

The Rhode Island Ethics Commission held its 10th 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 August 19, 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 Frederick K. Butler

Deborah M. Cerullo SSND, Vice Chair John M. LaCross

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; Jason Gramitt, Education Coordinator/Staff Attorney; Staff Attorneys Teresa Giusti and Amy C. Stewart; and Commission Investigators Steven Cross, Peter J. Mancini and Gary V. Petrarca.

At 9:01 a.m., the Chair opened the meeting. The first order of

business was:

Approval of minutes of the Open Session held on June 17, 2014.

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

VOTED: To approve minutes of the Open Session held on June 17, 2014.

AYES: Robert A. Salk; Frederick K. Butler; Deborah M. Cerullo.

ABSTENTIONS: John M. LaCross; Ross Cheit.

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:

Gail Hallock Cyr, AIA, an alternate member of the North Kingstown Historic District Commission (“HDC”), who in her private capacity is an architect, requesting an advisory opinion regarding whether she

qualifies for a hardship exception to the Code of Ethics' prohibition on appearing before her own board to help a client obtain a Certificate of Appropriateness.

***Commissioner Lynch arrived at 9:06 a.m.**

Staff Attorney Stewart presented the Commission Staff recommendation. The Petitioner was present. In response to Commissioner LaCross, Staff Attorney Stewart informed that General Commission Advisory ("GCA") 2010-1 considers whether there is a hardship to the HDC. In addition, she noted that there would be a financial hardship for the Petitioner's client if the client had to find a new architect at this time. In response to Commissioner Salk, Staff Attorney Stewart explained that, coincidentally, all three of the prior requests implicating the GCA 2010-1 hardship exception originated from the same architect on Block Island, but she noted that this exception was not limited to Block Island. She stated that the draft advisory opinion contains facts to establish that the Petitioner qualifies as a historic architect in addition to any other relevant facts which support a finding of hardship in this case.

Commissioner Butler stated that the GCA 2010-1 hardship exception for historic architects was created to avoid a chilling effect on historic architects who might be reluctant to serve on municipal historic district commissions as volunteers while having to refuse all clients subject to their jurisdiction. Chair Cheit stated that these were

unique facts and the hardship exception is applied on a case by case basis. He noted the financial hardship to the Petitioner's client if she had to find a new architect at this time. Upon motion made by Commissioner LaCross and duly seconded by Commissioner Butler, it was unanimously

VOTED: To issue an advisory opinion, attached hereto, to Gail Hallock Cyr, AIA, an alternate member of the North Kingstown Historic District Commission.

The next advisory opinion was that of:

Zaida Rivera, an administrative aide at the Rhode Island Commission for Human Rights ("CHR"), requesting an advisory opinion regarding whether the Code of Ethics prohibits her from representing herself before the CHR relative to a charge of discrimination that she filed against a private employer.

Staff Attorney Stewart presented the Commission Staff recommendation. The Petitioner was present. Cynthia M. Hyatt, Esquire, Legal Counsel to the CHR, was also present on behalf of the CHR. In response to Commissioner Butler, the Petitioner replied that, as a member of the administrative staff, she does not work directly with the CHR commissioners. In response to Commissioner Cerullo, Ms. Hyatt stated that the CHR staff will screen the Petitioner off any work related to her case, and she has already discussed this with the

head of the administrative staff. She also stated that whoever is assigned as the investigator on the Petitioner's case will be instructed to speak to her about her case as they would to any other complainant.

Commissioner Salk questioned whether the members of the CHR could fairly and impartially review the Petitioner's case. Chair Cheit stated that the question of the CHR members' biases was not before the Commission today. He explained that the advisory opinion addresses whether the Petitioner can represent herself before the board by which she is employed. In response to Commissioner Cerullo, Ms. Hyatt stated that the Petitioner will have opportunities through the administrative process to elect to file suit in Superior Court or to appeal any administrative decision of the CHR to the Superior Court. Upon motion made by Commissioner Lynch and duly seconded by Commissioner LaCross, it was unanimously

VOTED: To issue an advisory opinion, attached hereto, to Zaida Rivera, an administrative aide at the Rhode Island Commission for Human Rights.

Commissioner Butler stated that he was in favor of screening the Petitioner off any administrative work related to her charge of discrimination in order to avoid any appearances of impropriety.

The next advisory opinion was that of:

N. David Bouley, the acting director of the Department of Planning & Development for the City of Woonsocket, requesting an advisory opinion regarding whether the Code of Ethics prohibits him from participating in the City's review of NeighborWorks® Blackstone River Valley's application for a Community Development Block Grant.

Legal Counsel Alves recused from this matter. Staff Attorney Stewart presented the Commission Staff recommendation. The Petitioner was present. Upon motion made by Commissioner Cerullo and duly seconded by Commissioner Lynch, it was unanimously

VOTED: To issue an advisory opinion, attached hereto, to N. David Bouley, the acting director of the Department of Planning and Development for the City of Woonsocket.

The next advisory opinion was that of:

Joyce L. Stevos, Ph.D., a member of the Rhode Island Board of Education, a state appointed position, requesting an advisory opinion regarding whether the Code of Ethics prohibits her simultaneous service as a board member of a charter school, and whether she may participate in Board of Education actions that directly impact that charter school.

Staff Attorney Stewart presented the Commission Staff

recommendation. The Petitioner was present. In response to Commissioner Cerullo, Staff Attorney Stewart explained that public entities and agencies do not constitute businesses as the term is defined in the Code of Ethics. She explained that state statutes clearly designate charter schools as public schools.

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

VOTED: To issue an advisory opinion, attached hereto, to Joyce L. Stevos, Ph.D., a member of the Rhode Island Board of Education.

AYES: Robert A. Salk; Frederick K. Butler; John D. Lynch, Jr.; John M. LaCross; and Ross Cheit.

NOES: Deborah M. Cerullo.

Commissioner Cerullo stated that her vote reflects her concerns for appearances of impropriety. The Petitioner stated that she did not intend to participate in Board of Education matters involving the charter school of which she is a board member.

The final advisory opinion was that of:

Scott Wolf, a member of the City of Providence Zoning Board of Review, requesting an advisory opinion regarding whether the Code of Ethics prohibits him from participating in the Zoning Board's consideration of an appeal in which one of the appellants is his employer's business associate.

Staff Attorney Stewart presented the Commission Staff recommendation. The Petitioner was present. The Petitioner stated that he participated in the Zoning Board meeting on July 21, 2014, in accordance with instructions in the draft advisory opinion. He stated that he voted to find that the Providence Preservation Society did not have standing to appeal and to deny the appeal. Chair Cheit noted that the City of Providence should consider amending its Charter to provide for a second alternate member of the Zoning Board to avoid future quorum problems. Upon motion made by Commissioner Lynch and duly seconded by Commissioner LaCross, it was unanimously

VOTED: To issue an advisory opinion, attached hereto, to Scott Wolf, a member of the City of Providence Zoning Board of Review.

[Reporter's Note: The advisory opinion request from Robert DiCarlo, a police officer for the Town of Coventry, was continued.]

The next order of business was:

Director's Report.

Executive Director Willever reported that there were two (2) advisory opinions, eight (8) complaints, and one (1) litigation matter pending. He stated that fifty-four (54) APRA requests were granted since the last meeting, fifty-three (53) of which were completed within one (1) business day. He also introduced Teresa Giusti who recently began her employ as a staff attorney.

The next order of business was:

Executive Session.

At 9:45 a.m., upon motion made by Commissioner Cerullo and duly seconded by Commissioner Lynch, it was unanimously

VOTED: To go into Executive Session, to wit:

- 1. Motion to approve minutes of the Executive Session held on June 17, 2014, pursuant to R.I. Gen. Laws § 42-46-5(a)(2) and (4).**
- 2. In re: Diana Serra, Complaint No. 2014-3, pursuant to R.I. Gen. Laws § 42-46-5(a)(2) and (4).**
- 3. In re: Kenneth Parilla, Complaint No. 2014-4, pursuant to R.I. Gen. Laws § 42-46-5(a)(2) and (4).**

4. In re: Christopher Warfel, Complaint No. 2014-5, pursuant to R.I. Gen. Laws § 42-46-5(a)(2) and (4).

5. In re: Peter Palumbo, Complaint No. 2014-6, pursuant to R.I. Gen. Laws § 42-46-5(a)(2) and (4).

6. In re: Michael A. Solomon, Complaint No. 2014-7, pursuant to R.I. Gen. Laws § 42-46-5(a)(2) and (4).

The Commission reconvened in Open Session at approximately 11:09 a.m. Upon motion made by Commissioner Lynch and duly seconded by Commissioner Cerullo, it was unanimously

VOTED: To seal the minutes of the Executive Session held on August 19, 2014.

The next order of business was:

Report on Actions Taken in Executive Session.

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

1. Approved the minutes of the Executive Session held on June 17, 2014. The vote was as follows:

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

ABSTENTIONS: Ross Cheit; John M. LaCross.

2. Unanimously voted to initially determine that the facts alleged in In re: Diana Serra, Complaint No. 2014-3, if true, were sufficient to constitute a knowing and willful violation of the Code of Ethics and authorized an investigation.

3. Unanimously voted to initially determine that the facts alleged in Counts 2, 7 and 9 of In re: Kenneth Parilla, Complaint No. 2014-4, if true, were sufficient to constitute a knowing and willful violation of the Code of Ethics and authorized an investigation. However, the Commission unanimously voted to initially determine that Counts 1, 3, 4, 5, 6 and 8 failed to allege facts sufficient to constitute a knowing and willful violation of the Code of Ethics.

4. Unanimously voted to initially determine that the facts alleged in In re: Christopher Warfel, Complaint No. 2014-5, if true, were sufficient to constitute a knowing and willful violation of the Code of Ethics and authorized an investigation.

5. Unanimously voted to initially determine that the facts alleged in In re: Peter Palumbo, Complaint No. 2014-6, if true, were sufficient to constitute a knowing and willful violation of the Code of Ethics and authorized an investigation.

6. Unanimously voted to initially determine that the facts alleged in In re: Michael A. Solomon, Complaint No. 2014-7, if true, were sufficient to constitute a knowing and willful violation of the Code of Ethics and authorized an investigation.

7. Unanimously voted to approve an informal resolution and settlement in the matter of In re: Diana Serra, Complaint No. 2014-3.

The final order of business was New Business. There being none, at 11:13 a.m., upon motion made by Commissioner Lynch and duly seconded by Commissioner LaCross, it was unanimously

VOTED: To adjourn.

Respectfully

submitted,

John D. Lynch, Jr.

Secretary