

business was:

Administration of the Oath of Office to Dr. Timothy Murphy.

Chair Cheit administered the oath of office to Commissioner Murphy.

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

The next order of business was:

Approval of minutes of the Open Session held on February 3, 2015.

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

VOTED: To approve minutes of the Open Session held on February 3, 2015.

AYES: Mark B. Heffner; Frederick K Butler; Ross Cheit.

ABSTENTIONS: Robert A. Salk; Deborah M. Cerullo; Timothy Murphy.

The next order of business was:

Executive Session

At 9:08 a.m., upon motion made by Commissioner Cerullo and duly seconded by Commissioner Murphy, it was unanimously

VOTED: To go into Executive Session, to wit:

- 1. In re: Lisa Baldelli-Hunt, Complaint No. 2014-13, pursuant to R.I. Gen. Laws § 42-46-5(a)(2) and (4).**
- 2. In re: Garrett Mancieri, Complaint No. 2014-16, pursuant to R.I. Gen. Laws § 42-46-5(a)(2) and (4).**

The Commission reconvened in Open Session at approximately 9:42 a.m.

The next order of business was:

Report on Actions Taken in Executive Session.

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

- 1. Unanimously voted to approve an Informal Resolution & Settlement in the matter of In re: Lisa Baldelli-Hunt, Complaint No.**

2014-13. [Legal Counsel Alves recused from this matter.]

2. Unanimously voted to approve an Informal Resolution & Settlement, as amended, in the matter of In re: Garrett Mancieri, Complaint No. 2014-16.

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:

Bonnita B. Van Slyke, a member of the Charlestown Town Council, requesting an advisory opinion regarding whether the Code of Ethics prohibits her from participating in the Town Council's consideration of matters involving Ninigret Park, given that her primary residence is located in an abutting private development.

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

VOTED: To issue an advisory opinion, attached hereto, to Bonnita B. Van Slyke, a member of the Charlestown Town Council.

The second advisory opinion was that of:

Robert R. Moreau, a member of the Woonsocket City Council, requesting an advisory opinion regarding whether he may represent himself before the Woonsocket Board of Tax Review to appeal the tangible property tax assessed against a business that he owns.

Staff Attorney Stewart presented the Commission Staff recommendation. The Petitioner was not present. Chair Cheit stated that he did not agree that these facts were similar to an abutter challenging a neighbor's variance. He stated that public officials should not be prohibited from challenging a tax against themselves or their business provided that they seek an advisory opinion prior to representing themselves before their own board or a board over which they have appointing authority. Staff Attorney Stewart stated that she would amend the draft opinion to reflect Chair Cheit's statement. Upon motion made by Commissioner Murphy and duly seconded by Commissioner Butler, it was unanimously

VOTED: To issue an advisory opinion, as amended and attached hereto, to Robert R. Moreau, a member of the Woonsocket City Council.

The third advisory opinion was that of:

Philip M. Overton, a member of the Westerly Town Council, requesting an advisory opinion regarding whether the Code of Ethics prohibits his participation in the Town Council's discussions and decision making relative to litigation involving Westerly Granite Company, LLC, given his insurance agent-client relationship with one of the owners of Westerly Granite Company, LLC.

Staff Attorney Stewart presented the Commission Staff recommendation. The Petitioner was not present. Chair Cheit noted a typo on page 2. Staff Attorney Stewart stated that it will be corrected. Chair Cheit commented that, although the Petitioner only received \$15 per year from the insurance company relative to these two insurance policies, we have no distinction for a de minimis business association. Staff Attorney Stewart stated that the Petitioner considered his relationship with Mr. Comolli to be that of an ongoing business association. Upon motion made by Commissioner Cerullo and duly seconded by Commissioner Butler, it was unanimously

VOTED: To issue an advisory opinion, as amended and attached hereto, to Philip M. Overton, a member of the Westerly Town Council.

The fourth advisory opinion was that of:

Wendy A. Regan, a member of the North Providence Planning Board, requesting an advisory opinion regarding whether the Code of Ethics prohibits her from participating in the Planning Board's consideration of the Washington Trust Company's application to construct a bank on Mineral Spring Avenue, given that her employer has an ongoing business relationship with the Washington Trust Company.

Staff Attorney Stewart presented the Commission Staff recommendation. The Petitioner was not present. In response to Chair Cheit, Staff Attorney Stewart stated that it was legally irrelevant that the Petitioner would not be financially impacted by this decision because it is reasonably foreseeable that there will be a financial impact upon her private employer as a result of her official actions. Upon motion made by Commissioner Heffner and duly seconded by Commissioner Murphy, it was unanimously

VOTED: To issue an advisory opinion, attached hereto, to Wendy A. Regan, a member of the North Providence Planning Board.

The final advisory opinion was that of:

Joseph R. Sousa, a member of the Tiverton Town Council, requesting an advisory opinion regarding whether the Code of Ethics prohibits him from participating in the Town Council's consideration of litigation matters involving the son of one of his business associates.

Staff Attorney Stewart presented the Commission Staff recommendation. The Petitioner was not present. In response to Commissioner Murphy, Staff Attorney Stewart stated that, based upon the Petitioner's representations, the Petitioner does not have a business relationship with James Pelletier, whose company is in litigation with the Town of Tiverton. In response to Commissioner Cerullo, Staff Attorney Stewart stated that the Petitioner represented to her that he could participate in these matters in a fair and objective manner.

Commissioner Murphy expressed concerns about the propriety of the Petitioner participating in Town Council matters involving his business associate's son. Staff Attorney Stewart replied that the facts represented do not indicate a direct financial link between the Petitioner and James Pelletier. Upon motion made by Commissioner Butler and duly seconded by Chair Cheit, it was

VOTED: To issue an advisory opinion, attached hereto, to Joseph R. Sousa, a member of the Tiverton Town Council.

AYES: Robert A. Salk; Frederick K. Butler; Mark B. Heffner; Deborah M. Cerullo; Ross Cheit.

NOES: Timothy Murphy.

The next order of business was:

Legislative Update

Staff Attorney Gramitt summarized the three bills related to restoring the Ethics Commission's jurisdiction over members of the General Assembly by amending the State Constitution: S 0173 sponsored by Senator James Sheehan; S 0056 sponsored by Senator Edward O'Neill; and H 5374 sponsored by Representative Michael Marcello. He stated that similar bills were considered during the 2014 legislative session. He explained that Senator O'Neill and Representative Marcello's bills are similar and would both restore the Ethics Commission's jurisdiction over the General Assembly with no restrictions. He stated that Senator Sheehan's bill would restore the Ethics Commission's jurisdiction with two compromises: 1) appellate review of Ethics Commission decisions would be by a trial de novo; and 2) providing an exception for legislative speech.

Legal Counsel Alves stated that he reviewed these bills and prepared a memorandum, which was provided to the Commission in the meeting packets. He addressed his concerns with the compromises in Senator Sheehan's bill. He stated that de novo review of Ethics Commission decisions would have a significant impact because all of the expertise and work of the Commission in reaching a decision would be lost during the appellate review. He stated that the Ethics Commission is unique because it is a constitutionally established agency, unlike many other state agencies created by statute.

Therefore, the Ethics Commission should at least be subject to the same deferential Administrative Procedures Act (“APA”) standard of review as those agencies. He further stated that legislators could still debate matters on which they could not vote, in addition to discussing legislation outside of the assembly’s chambers and lobbying colleagues freely.

**** Commissioner Lynch arrived at 10:22 a.m.**

Commissioner Heffner stated that he was troubled by the language regarding the exception for core legislative activity. Legal Counsel Alves replied that a broad interpretation would include the panoply of the legislative process such as lobbying and meetings both inside and outside the State House.

In response to Chair Cheit, Staff Attorney Gramitt stated that the Commission will soon be asked to take a position on all three of these bills when they are scheduled for hearings before the House or Senate Judiciary Committees. He stated that he has previously, as directed by the Commission, testified in favor of the so-called “clean bills” which restore jurisdiction without any limitations or restrictions.

Chair Cheit stated that he saw no reason to support a watered-down bill. Commissioner Murphy stated that he opposes Senator Sheehan’s bill because it is inconsistent with what the citizens of

Rhode Island voted for in 1986.

Chair Cheit stated that there seemed to be a consensus to support the so-called “clean bills” proposed by Senator O’Neill and Representative Marcello. Discussion ensued about whether to not support or oppose Senator Sheehan’s bill. Commissioner Salk made a motion to oppose Senator Sheehan’s bill, which was duly seconded by Commissioner Murphy. There was further discussion.

Commissioner Heffner stated that he found the speech exception more problematic than de novo review, which we could deal with if jurisdiction was restored. Commissioner Lynch questioned who would prosecute for the Ethics Commission if there was a de novo trial. Staff Attorney Gramitt stated that he presumes it would be the Commission’s prosecutors.

Commissioner Heffner offered an amendment to Commissioner Salk’s motion to say that we oppose the legislative speech exception and have concerns about de novo review. There was no second. In response to Commissioner Heffner, Staff Attorney Gramitt stated that he could express a range of the Commission’s concerns when he testifies before the Senate Judiciary Committee. Commissioner Heffner withdrew his motion to amend Commissioner Salk’s motion. He stated that he will rely on Staff Attorney Gramitt to convey the range of concerns express by the Commission on these bills.

Commissioner Butler stated that he was not in favor of opposing Senator Sheehan's bill, because, even with the exceptions/compromises, it would appear as if we are opposing the restoration of our own jurisdiction. Chair Cheit stated that he agreed with Commissioner Butler's concerns. He stated that the Commission should endorse the bills of which they are in favor. Commissioner Murphy stated that opposing the bill exposes its weakness. Commissioner Lynch questioned how much the Commission should even participate in this legislative process, but he supported favoring the so-called "clean bills."

Commissioner Salk amended his original motion and moved to support Senator O'Neill and Representative Marcello's bills. Upon motion made by Commissioner Salk and duly seconded by Commissioner Butler, it was unanimously

VOTED: To support Senator O'Neill and Representative Marcello's so-called "clean bills," which restore the Ethics Commission's jurisdiction over members of the General Assembly.

Staff Attorney Gramitt also summarized Bill H 5306 introduced by Representative McLaughlin regarding a Code of Conduct for public officials and candidates. The consensus of the Commission was to take no position on this bill.

The next order of business was:

Director's Report.

Executive Director Willever reported that there were twelve (12) complaints and eight (8) advisory opinions pending. He stated that nine (9) APRA requests were granted since the last meeting, all of which were completed within one (1) business day.

*****Commissioner Heffner left the meeting at 11:05 a.m.**

The next order of business was:

Executive Session.

At 11:05 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 February 3, 2015, pursuant to R.I. Gen. Laws § 42-46-5(a)(2) and (4).**
- 2. In re: Denise L. Rhodes, Complaint No. 2014-20, pursuant to R.I. Gen. Laws § 42-46-5(a)(2) and (4).**
- 3. In re: Robert R. Moreau, Complaint No. 2014-11, 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: Dawson T. Hodgson, Complaint No. 2014-14, pursuant to R.I. Gen. Laws § 42-46-5(a)(2) and (4).

The Commission reconvened in Open Session at approximately 11:43 a.m.

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

VOTED: To seal the minutes of the Executive Sessions held on March 10, 2015.

The next order of business was:

Report on Actions Taken in Executive Session.

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

1. Approved the minutes of the Executive Session held on February 3, 2015. The vote was as follows:

AYES: John D. Lynch, Jr.; Ross Cheit; Frederick K. Butler.

ABSTENTIONS: Robert A. Salk; Timothy Murphy; Deborah M. Cerullo.

2. Unanimously voted to approve an Informal Resolution & Settlement in the matter of In re: Denise L. Rhodes, Complaint No. 2014-20.

3. Unanimously voted to approve an Informal Resolution & Settlement in the matter of In re: Robert R. Moreau, Complaint No. 2014-11.

4. Unanimously voted to approve an Informal Resolution & Settlement in the matter of In re: Christopher Warfel, Complaint No. 2014-5.

5. Unanimously voted to approve a First Extension of Time in the matter of In re: Dawson T. Hodgson, Complaint No. 2014-14.

The final order of business was:

New Business

Chair Cheit welcomed new Commissioner Timothy Murphy to the

Ethics Commission. At 11:45 a.m., upon motion made by Commissioner Butler and duly seconded by Commissioner Cerullo, it was unanimously

VOTED: To adjourn.

Respectfully

submitted,

**Robert A. Salk
Secretary**