

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

**July 19, 2016**

**The Rhode Island Ethics Commission held its 9th meeting of 2016 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, July 19, 2016, 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\*  
Timothy Murphy    M. Therese Antone  
Robert A. Salk, Secretary    Frederick K. Butler**

**Also present were Edmund L. Alves, Jr., Commission Legal Counsel; Kent A. Willever, Commission Executive Director; Jason Gramitt, Education Coordinator/Staff Attorney; Staff Attorney Teresa Giusti; and Commission Investigators Steven T. Cross and Peter J. Mancini.**

**At 9:05 a.m., the Chair opened the meeting. The first 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.**

**\*Commissioner Heffner arrived at 9:10 a.m.**

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

**Steven Sepe, Registrar of the City of Cranston Board of Canvassers, requesting an advisory opinion as to whether he may continue to exercise all of his duties in that position, given that his father is a declared candidate for the office of Mayor of the City of Cranston in the upcoming 2016 election.**

**Staff Attorney Giusti presented the Commission Staff recommendation. The Petitioner was present. Chair Cheit expressed concern regarding the Petitioner recusing from matters involving the 2016 mayoral election which would then fall on the other employees who directly report to the Petitioner. Commissioner Butler commented that, as addressed in the draft advisory opinion, the Board of Canvassers is the final authority on all decisions made. In response to Chair Cheit, Staff Attorney Giusti explained that the certification of nomination papers is the only matter involving the exercise of any discretionary or decision-making authority from**

**which the Petitioner would be required to recuse. Upon motion made and duly seconded, it was unanimously**

**VOTED: To issue an advisory opinion, attached hereto, to Steven Sepe, Registrar of the City of Cranston Board of Canvassers.**

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

**Johanna Harris, a Commissioner of the City of Providence Board of Licenses, requesting an advisory opinion regarding whether she may make campaign contributions, or engage in campaigning or fundraising, in support of a political candidate.**

**Staff Attorney Gramitt presented the Commission Staff recommendation. The Petitioner was present. Discussion ensued. Chair Cheit commented that this draft advisory opinion addresses only whether the Code of Ethics, as opposed to any other statutory or regulatory provision, prohibits the Petitioner from making campaign contributions. Upon motion made by Commissioner Antone and duly seconded, it was unanimously**

**VOTED: To issue an advisory opinion, attached hereto, to Johanna Harris, a Commissioner of the City of Providence Board of Licenses.**

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

**Lisette M. Gomes, Esq., the Assistant City Solicitor for the City of**

**Pawtucket, requesting an advisory opinion regarding whether she may continue to serve as the President of the Board of Directors of Cape Verdean American Community Development, a nonprofit organization that receives grants administered by the City, and whether she may continue to rent office space for her private law practice in a building owned by the organization.**

**Staff Attorney Gramitt presented the Commission Staff recommendation. The Petitioner was present. Discussion ensued. In response to Commissioner Salk, Staff Attorney Gramitt explained that the Petitioner must recuse, in her official capacity as Assistant City Solicitor, from participating in any matters pending before the City that involve Block Grants for which Cape Verdean American Community Development has applied or is likely to apply. Upon motion made and duly seconded, it was unanimously**

**VOTED: To issue an advisory opinion, attached hereto, to Lisette M. Gomes, Esq., the Assistant City Solicitor for the City of Pawtucket.**

**The next order of business was:**

**Public Hearing on, and motion to adopt, proposed regulatory amendment pursuant to R.I. Gen. Laws §§ 36-14-9 and 42-35-3:**

**Hearing, public comment and vote regarding adoption of proposed Regulation 36-14-1001.2 – Limitation on Pre-election Complaints.**

**The proposed regulation would establish a moratorium on the filing of ethics complaints against declared candidates for elective office during a 90-day period leading up to a general or special election. The proposed regulation may be viewed on the Commission's website, <http://www.ethics.ri.gov>.**

**The hearing was stenographically recorded and a transcript of the proceeding will be available at the Commission Office. Five members of the public were in attendance to offer comments and written testimony, and to answer questions posed by the commissioners: (1) H. Philip West Jr., former Director of Common Cause Rhode Island; (2) John Marion, current Director of Common Cause Rhode Island; (3) Jane W. Koster, President of League of Women Voters of Rhode Island; (4) Steven Brown, Executive Director of American Civil Liberties Union of Rhode Island; and (5) Randall Rose, member of the Board of Directors of Operation Clean Government.**

**At the conclusion of the hearing, Chair Cheit questioned Staff Attorney Gramitt regarding how the Commission Staff will handle complaints received during the moratorium. Staff Attorney Gramitt explained that, while written complaints filed during that time period will be rejected, the Commission Staff will continue to meet and speak with members of the public to discuss issues and concerns.**

**Staff Attorney Gramitt further explained that, pursuant to the**

**Administrative Procedures Act, if the Commission votes to adopt this rule, he will file Regulation 36-14-1001.2 with the Secretary of State, and said regulation will become effective twenty (20) days from the filing date.**

**The Commission deliberated in Open Session. Upon the Ethics Commission's consideration of proposed Regulation 1001.2 and all public comment received, both oral and written, Commissioner Butler moved that the Commission make the following findings: (1) that there is a need for the proposed regulation; (2) that there is no genuine alternative to this proposed regulation which would be as effective and less burdensome to affected private persons; and (3) that the Commission has identified no other state regulation which is overlapped or duplicated by this proposed regulation; and that the Commission adopt Regulation 1001.2 as presented. Commissioner Antone seconded the motion. Upon said motion made and duly seconded, it was unanimously**

**VOTED: To adopt Regulation 36-14-1001.2, entitled "Limitation on Pre-election Complaints."**

**The next order of business was:**

**Executive Session.**

**At 11:18 a.m., upon motion made by Commissioner Butler and duly**

**seconded by Commissioner Heffner, it was unanimously**

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

**1. Motion to approve the minutes of the Executive Session held on June 21, 2016.**

**The Commission reconvened in Open Session at approximately 11:19 a.m.**

**The next order of business was:**

**Report on Actions Taken in Executive Session.**

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

**1. Unanimously voted to approve the minutes of the Executive Session held on June 21, 2016.**

**The next order of business was:**

**Director's Report.**

**Executive Director Willever reported that there were four (4) complaints and four (4) advisory opinions pending. He stated that**

**twenty-six (26) APRA requests were received since the last meeting, all of which were granted within one business day.**

**Executive Director Willever further informed that he had received approval to upgrade the Staff Attorney I position to a Staff Attorney II and to fill the position. Applications have been received and are being reviewed, and he anticipates filling the position sometime in August.**

**The next order of business was:**

#### **New Business**

**There being none, at 11:21 a.m., upon motion made by Commissioner Heffner and duly seconded by Commissioner Butler, it was unanimously**

**VOTED: To adjourn.**

**Respectfully**

**submitted,**

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**Robert A. Salk**

**Secretary**