



Commonwealth of Massachusetts **STATE ETHICS COMMISSION**

One Ashburton Place - Room 619
Boston, Massachusetts 02108

Hon. Barbara A. Dortch-Okara (ret.)
Chair

David A. Wilson
Acting Executive Director

MINUTES OF THE STATE ETHICS COMMISSION MEETING **July 20, 2016**

One Ashburton Place, Room 619
Boston, MA 02108

PUBLIC SESSION

MEETING CONVENED

Chairman Barbara Dortch-Okara called the meeting to order at 9:14 a.m. Also in attendance were Vice-Chairman William J. Trach, Commissioner Regina L. Quinlan, and Commissioner David A. Mills. Commissioner Thomas J. Sartory was not present.

APPROVAL OF MEETING MINUTES

On the motion of Commissioner Mills, seconded by Vice-Chairman Trach, the Commission voted 4-0 to waive the reading and approve the minutes of the June 22, June 28 and July 7, 2016 public and executive sessions.

ACTING EXECUTIVE DIRECTOR'S REPORT

Acting Executive Director David A. Wilson thanked the staff for their hard work as reflected in the monthly packet, noting that the staff carried on the Commission's work despite difficult circumstances.

Personnel

Mr. Wilson reported that the Chief Financial Officer/Director of Budget & Administration Michael Memmolo will be leaving the Commission on August 5th to take over as CFO of the Department of Public Safety. Mr. Wilson stated that this is a great loss for the Commission, and that on behalf of the staff, he thanked Mr. Memmolo for all of his hard work over the past years. Mr. Wilson further stated that he is working with Mr. Memmolo to update the CFO job description for accuracy so that we can move forward with recruitment process. Mr. Memmolo

thanked the Commission and staff. He stated that his tenure at the Commission was amazing, that he enjoyed his time at the Commission and working with everyone. Chairman Dortch-Okara thanked Mr. Memmolo on behalf of the Commission for his extraordinary assistance to each of the Commissioners above his responsibilities as CFO. She congratulated him on his new position.

Vice-Chairman Trach stated that in his nearly five years serving as a Commission he has been most amazed by the staff who consistently go above and beyond; and this made him proud to be a part of the Commission. He stated that Mr. Memmolo is an excellent example of that and personally thanked him for his work. Commissioner Quinlan agreed and stated that she shared in everything that had been said by the Commissioners thus far, and wished Mr. Memmolo success in his new position. Commissioner Mills said he endorsed everything that was expressed by the Commission and stated that Mr. Memmolo always made him feel welcomed, and that he hoped Mr. Memmolo was getting a big raise because he will bring a lot to his new position.

Appointment of New Commissioner

Mr. Wilson reported that the Governor's Office is working on appointing a new Commissioner to replace Vice-Chairman Trach. He stated that he was optimistic that they will have a new Commissioner in place by the October meeting, which would mean that Vice-Chairman Trach's last meeting will be the September meeting.

Proposed Ethics Joint Task Force

Financial Disclosure Administrator and Analyst Robert Milt reported to the Commission on the background of the proposed Joint Task Force on Ethics Reform, and stated that a memorandum was provided to the Commission containing the same information. He stated that the Senate did not agree to move forward to the Committee stage with the resolve filed by the House Speaker establishing the task force. He stated that he did not expect to see a lot of movement in the next few weeks. Chairman Dortch-Okara asked whether Mr. Milt had any sense of what resurrected the proposal of a task force. Mr. Milt responded that his guess was that there was hope for some agreement after the initial announce of a joint task force, and when there was none, the Speaker filed the resolve on his own. Commissioner Mills inquired as to whether the Commission should take any action at this stage. Chairman Dortch-Okara stated it had been suggested that the task force may consulting people in addition to its own members.

[At 9:28 a.m., Commissioner Sartory entered the room and joined the meeting.]

Next Commission Meetings

Mr. Wilson stated that at the last meeting, the Commission agreed to tentatively schedule a meeting for August 11 at 10 a.m. Chairman Dortch-Okara stated that the Commission should hold an August meeting only to discuss the recruitment process for the Executive Director position. The other commissioner agreed by consensus to hold the next Commission meeting on August 11, 2016 at 10 a.m.

Mr. Wilson stated that the September meeting would be held on Friday, September 16, 2016 at 9 a.m., and the October meeting would be held on Thursday, October 20, 2016 at 9 a.m.

CHIEF FINANCIAL OFFICER REPORT

Mr. Memmolo reported that the FY 2017 budget was released from Conference Committee on June 29th and was passed by the House and Senate and sent to the Governor for action on June 30th. The FY 2017 funding approved by the Legislature for the Commission was \$2,093,969, a \$25,000 increase over our FY 2016 appropriation. On July 7, 2016, we were informed by our Executive Office of Administration and Finance analyst that the Governor would be reducing all non-executive FY 2017 line-item spending by 1%. This reduction will decrease our FY 2017 appropriation by \$20,940 to \$2,073,029, which is still an increase of approximately \$4,000 over our FY 2016 appropriation. The Governor's reductions and vetoes are now before the Legislature, which can act to reverse these actions. Although this is not great news, our FY 2017 budget planning was done based on the assumption that the agency would be level funded in FY 2017.

Regarding our FY 2016 budget, Mr. Memmolo reported that FY 2016 closed on June 30. Although we still have some FY 2016 obligations to finalize, the Commission will return some unexpended funds back to the Commonwealth's General Fund. He stated that the estimated FY 2016 unexpended balance will be between \$20,000 - \$30,000. We will have a clearer picture of our final FY 2016 unexpended balance by the end of August.

Mr. Memmolo further reported that as was previously reported, the entire office was thoroughly cleaned, especially the main conference room. We were also able to upgrade some of our IT infrastructure. Mr. Memmolo thanked IT Specialist Tony Webb and Public Education and Communication Chief David Giannotti for identifying certain components of our server units that needed to be replaced. Mr. Memmolo noted that Mr. Webb worked with the vendor to replace the emergency power supply to our servers, which is important in the event the building loses power. He thanked Mr. Webb for working hard with the vendor and for handling it so quickly.

PUBLIC EDUCATION DIVISION REPORT

Public Education and Communications Division Chief David Giannotti presented the Public Education and Communication Division's report for the month of June 2016 and a report highlighting FY 2016 information technology activities. He noted that he completed four seminars at the Treasurer's Office, and that 100% of their staff has now received the conflict of interest law training. The City of Boston's Mayor and his cabinet and significant department heads received training from the Secretary of State's Office on the public records law and from us on the conflict of interest law. Mr. Giannotti also reported that he is now working on getting newly elected officials to come into compliance with the education requirements. Mr. Giannotti reported that he is working with Mr. Wilson on issuing the FY 2015 Annual Report, and thereafter will immediately begin working on the FY 2016 report.

Mr. Giannotti further noted that the number of seminars conducted by the Commission has slightly increased from last year's number and past years' averages. Mr. Giannotti commended

Mr. Webb for consistently doing great work and for completing a tremendous amount of work in the past year, such as serving as a technical member of the SFI team and helping the application go live.

Mr. Giannotti reported that he will be engaged in a 3-week project with Mass.gov to audit all website content, because agencies will be migrating to new content-editing software. He reported that he will meet with all site administrators this afternoon to decide on the process. He informed the Commission that we have about 2,500 pages of content on our website, and the project is aimed at removing redundant and obsolete content.

LEGAL DIVISION MATTERS

Update on New SFI Electronic Filing Application

Legal Division Deputy Chief/SFI Lauren Duca provided an update on the status of the new SFI application. Ms. Duca reported that the last filing deadline was June 21. The main issue with the system right now is that the reporting functions are not yet complete, which would allow us to run a report on everybody who missed the June 21 deadline. The vendor is working on this function. Ms. Duca stated that she plans on spending the rest of the month getting filers to file their SFIs. Chairman Dortch-Okara asked what the number of non-filers looked like around this time last year. Ms. Duca responded that at this time last year there were fewer non-filers, but that this is unsurprising given that we have a new system. While we are a little higher this year than last year, we are not at the highest in the last five years.

Ms. Duca further reported that Mr. Memmolo and Assistant General Counsel Pauline Nguyen have been working with the vendor to identify remaining functions that need to be developed and loaded into the application. She stated that she anticipates going live with the Public Inspection Module in late August or early September. The vendor is working on the function allowing us to upload manually filed SFIs – this function is necessary to the Public Inspection Module. Chairman Dortch-Okara asked whether we are still able to respond to public records requests before the Public Inspection Module is completed. Ms. Duca responded yes, we are responding to those requests in the same way that we did last year.

Legal Division Metrics for June 2016

General Counsel Deirdre Roney presented the following Legal Division metrics for June 2016. The Commission had no questions.

- **Written advice.** The Legal Division answered by letter or email 64 written requests for advisory opinions under G.L. c. 268A and c. 268B.

For comparison:	June 2015 (same month last year):	42
	May 2016 (previous month):	50

- **Oral advice.** The Legal Division attorneys provided advice by telephone or on a walk-in basis in response to 660 requests for advice from state, county and municipal officials.

For comparison:	June 2015 (same month last year):	448
	May 2016 (previous month):	573

- **Review of municipal letters.** Division staff reviewed 8 letters issued by city solicitors/town counsel pursuant to G.L. c. 268A, § 22 and 930 CMR 1.03.

For comparison:	June 2015 (same month last year):	5
	May 2016 (previous month):	1

- **Backlog.** As of today, the Division has 10 pending requests for written advice that are more than 30 days old. There are a total of 22 pending requests for written advice.

Legal Division Special Projects

Ms. Roney provided the Commission with a list of the special projects currently being worked on by members of the Legal Division. The Commission had no questions.

Adjudicatory Matters

Ms. Roney presented the calendar of hearing dates and pre-hearing conferences in pending Commission adjudicatory proceedings. The Commission had no questions.

Litigation Matters

McClure v. State Ethics Commission: Middlesex Superior Court Civil Action No. MICV2013-04186-L. Judgement has been entered for the Commission. Awaiting expiration of appeal period.

McGovern v. State Ethics Commission: Hampden Superior Court Civil Action No. 1679CV00082. Edward McGovern seeks judicial review pursuant to G.L. c. 30A of the Commission's finding of violation against him. We have filed the administrative record. The next step is for McGovern to make a motion for judgment on the pleadings.

ENFORCEMENT DIVISION MATTERS

Investigations Unit Metrics Report

Enforcement Division Deputy Chief/Investigations Katherine Gallant presented the monthly report of Investigations Unit activities for FY 2016. Ms. Gallant noted that number of received complaints should be 851, and the number of PI write-ups assigned should be 12 instead of 10. The Commission had no questions.

Attorney Metrics Report

Acting Enforcement Division Chief Candies Pruitt-Doncaster presented the report of Attorney Metrics. The Commission had no questions.

UPDATE ON EXECUTIVE DIRECTOR HIRING PROCESS

Chairman Dortch-Okara informed the Commission that if it decides to hire a search firm, it would need to be done through a public procurement process, which would take about 3-4 months. She reported that for its court administrator position, the Trial Court used Isaacson, Miller, which specialized in hiring in the non-profit and public interest sector. She stated that this is an expensive firm. Chairman Dortch-Okara also reported that she spoke to Mary E. Kane who has a search firm and is conducting the search for the Executive Director for the Volunteer Lawyers Project, an arm of the Boston Bar Association; that the Massachusetts Gaming Commission was authorized to spend up to \$80,000 on a search firm; and that she will be speaking with former Commissioner Jeanne Kempthorne who will share her thoughts about how the hiring process went when hiring the executive director in 2008.

Commissioner Quinlan asked whether it would make sense to review the personnel policies before hiring a new executive director. Vice-Chairman Trach stated the he believed Mr. Wilson should make a recommendation. Mr. Wilson stated that he plans to review the Personnel Manual and to make it a priority. His first step would be to get staff input, then work with General Counsel Deirdre Roney to determine the legal boundaries of any proposed change, and then work with the Audit, Finance and Human Resources Committee. Commissioner Quinlan stated that it would be important to begin the process of reviewing the Personnel Manual sooner rather than later, so that if there is a revised one, it goes out to the full Commission. Mr. Wilson explained that the Personnel Manual will go out to the full Commission, but that the process will involve staff, the HR Committee and the full Commission. Commissioner Mills offered to be available to assist with the Personnel Manual.

Commissioner Quinlan inquired about the status of the Chief of Enforcement hiring. Mr. Wilson stated that he will work on it immediately after this meeting and that he plans to meet with the finalists.

EXECUTIVE SESSION

At 10:09 a.m., on the motion of Chairman Dortch-Okara, seconded by vice-Chairman Trach, the Commission voted 5-0 to enter into executive session to discuss matters subject to the provisions of G.L. c. 30A, § 21, subparagraph (a)(7) and G.L. c. 268B, §§ 3 and 4. These matters will include investigatory matters, cases deferred, a preliminary inquiry report, a preliminary inquiry recommendation and summons authorization request, and advisory opinions; and a matter subject to the provisions of G.L. c. 30A, § 21, subparagraph (a)(1) and (7), G.L. c. 4, § 7, Clause Twenty-Sixth, exemption (c), and G.L. c. 66, § 10.

VOTE:	Chairman Dortch-Okara	<u>yes</u>
	Vice-Chairman Trach	<u>yes</u>
	Commissioner Quinlan	<u>yes</u>
	Commissioner Mills	<u>yes</u>

Commissioner Sartory yes

Chairman Dortch-Okara stated that the Commission will not reconvene in public session following the executive session.

LIST OF DOCUMENTS USED AT THIS MEETING

1. Agenda for the Commission Meeting of July 20, 2016.
2. Minutes of the State Ethics Commission Meetings for the June 22, June 28 and July 7, 2016 Public and Executive Sessions.
3. Memorandum dated July 14, 2016 from Michael Memmolo to the Commission re FY 2016 and FY 2017 budget updates.
4. Memorandum dated July 15, 2016 from David Giannotti to the Commission concerning Public Education and Communications Division activities for June 2016.
5. Memorandum dated July 15, 2016 from David Giannotti to the Commission re FY 2016 Public Education/Communications Division and Information Technology Accomplishments.
6. Memorandum dated July 15, 2016 from Deirdre Roney to the Commission setting forth Legal Division matters for the meeting.
7. Calendar of Hearing Dates and Pre-Hearing Conferences in pending Commission Adjudicatory Proceedings.
8. Report of Enforcement Division Investigations Unit FY 2016 Metrics.
9. Report of Enforcement Division Attorney FY 2016 Metrics.

Respectfully submitted,



Pauline Nguyen
Assistant General Counsel