



Commonwealth of Massachusetts **STATE ETHICS COMMISSION**

One Ashburton Place - Room 619
Boston, Massachusetts 02108

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

Karen L. Nober
Executive Director

MINUTES OF THE STATE ETHICS COMMISSION MEETING **February 17, 2016**

One Ashburton Place, Room 619
Boston, MA 02108

PUBLIC SESSION

MEETING CONVENED

Chairman Barbara Dortch-Okara called the meeting to order at 9:10 a.m. Also in attendance were Commissioners Regina L. Quinlan, David A. Mills and Thomas J. Sartory. Vice-Chairman William J. Trach was not present.

APPROVAL OF MEETING MINUTES

On the motion of Commissioner Mills, seconded by Commissioner Quinlan, the Commission voted 4-0 to waive the reading and approve the minutes of the January 21, 2016 public and executive sessions.

EXECUTIVE DIRECTOR'S REPORT

Budget

Executive Director Karen L. Nober reported that on January 27, the Governor issued his budget recommendations for FY2017, and, as expected, he recommended level-funding for the Commission. Ms. Nober stated that if we are actually level-funded, we will be able to backfill Karen Gray's position and Marisa Donelan's position, but we will need to cut operational spending. Ms. Nober stated that the agency's costs will increase in FY17 because of a collective bargaining increase scheduled to go in effect in July, as well as step increases.

Ms. Nober reported that the agency will need to eliminate spending on IT equipment and consultants and out-of-state travel, which means that we would not be able to attend next year's COGEL conference. Ms. Nober stated that after the SFI application project, the next IT project

will be to replace the Commission's case management system. She said that she anticipates that this will not cost as much as the SFI application project, but that the larger issue will involve the cost and feasibility of transferring the existing data to a new system.

Ms. Nober also reported that she met with Representative Christopher Markey, the Chair of the House Committee on Ethics. She stated that they had a productive discussion about various topics, including the Commission's budget. She said that she explained our staffing needs and our need for funding to replace our case management system in the near future, and Chairman Markey offered his support.

Chairman Dortch-Okara asked whether this project would need bond funding. Ms. Nober responded that she did not think so because this project would be much smaller than the SFI project, but that she did not know for sure.

Ms. Nober announced that the Commission's budget hearing will be held next Tuesday, February 23, at Wheaton College in Norton.

Personnel; Audit

Ms. Nober stated that she had no new updates related to personnel matters or the audit by the State Auditor's Office. She said she expects to have an update on the audit at the next Commission meeting.

Legislative

Ms. Nober reported that the Senate approved its version of a public records bill, and the matter is now in conference committee. She stated that the Senate bill included an amendment offered by Senator Tarr, which would amend c. 268B to permit the Commission to provide electronic copies of Statements of Financial Interests in response to public records requests. She said that she did not have any issues with that amendment, since this is something we already do. Commissioner Mills asked whether the amendment addressed any requirement to post SFIs on the website, and Ms. Nober responded that the amendment did not address that. She stated that the amendment included language that retains the notice requirement, but does not change it.

Commissioner Mills thanked Ms. Nober and CFO Michael Memmolo for their work on the budget.

Upcoming Dates

Ms. Nober reminded the Commission that the event for former Commissioner Martin Murphy will be held that evening.

She also reminded the Commission that the next Commission meeting will be held on March 23, 2016 at 9:00 a.m., which is one week later than the usual meeting date.

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 January 2016. Mr. Giannotti reported that he expects that we will conduct more seminars this year than last year. He also reported that with respect to the education and training requirements, he received a good response from elected state and county officials acknowledging their receipt of the conflict of interest law, and he will be following up with those who have not yet responded. The Commission had no questions.

LEGAL DIVISION MATTERS

Development of New SFI Filing and Management Application

Legal Division Deputy Chief/SFI Lauren Duca reported on the current status of the new SFI Filing and Management Application. She reported the following: the Liaison Module went live on January 22; liaisons have already started submitting their designation lists; we have received about 215 phone calls from liaisons with questions about using the new application; we have received positive feedback from liaisons; Steve Goliger, who oversees MassIT capital projects, commended our project as a success; we will be working on the Filers Module next – currently we are reviewing the electronic filing form and once we are done with that, we will create the manual form, which is necessary for candidates who must file in early March; we will also be working on the written filing instructions and the training video; once the Filers Module is done, we will work on the Public Inspections Module, which is the fourth and final module.

[At 9:26 a.m., Vice-Chairman Trach joined the meeting.]

Chairman Dortch-Okara asked when the Filer Module would be ready, and Ms. Duca stated that she did not know. Ms. Duca answered various other questions by the Commissioners.

Legal Division Metrics for January 2016

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

- **Written advice.** The Legal Division answered by letter or email 31 written requests for advisory opinions under G.L. c. 268A and c. 268B.

For comparison:	2008 monthly average (pre Ethics Reform):	31
	2010 monthly average (post Ethics Reform):	52
	January 2015 (same month last year):	40
	December 2015 (previous month):	42

- **Oral advice.** The Legal Division attorneys provided advice by telephone or on a walk-in basis in response to 376 requests for advice from state, county and municipal employees.

For comparison:	2008 monthly average (pre Ethics Reform):	280
	2010 monthly average (post Ethics Reform):	450

January 2015 (same month last year):	378
December 2015 (previous month):	386

- **Review of municipal letters.** Division staff reviewed 2 letters issued by city solicitors/town counsel pursuant to G.L. c. 268A, § 22 and 930 CMR 1.03.

For comparison:	2008 monthly average (pre Ethics Reform):	6
	2010 monthly average (post Ethics Reform):	8
	January 2015 (same month last year):	0
	December 2015 (previous month):	5

- **Backlog.** As of today, the Division has 9 pending requests for written advice that are more than 30 days old. There are a total of 26 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.

Ms. Roney also stated that a hearing officer needs to be assigned to a new matter, *Matter of Howard Hansen*, Adjudicatory Docket No. 16-0001. Commissioner Sartory agreed to be the hearing officer. Ms. Roney stated that Staff Attorney Amy Nee will serve as the legal advisor in this matter.

Litigation Matters

McClure v. State Ethics Commission: Middlesex Superior Court Civil Action No. MICV2013-04186-L. Ms. Roney reported on the status of this case, stating that we are still awaiting entry of judgment for the Commission. The Commission had no questions.

McGovern v. State Ethics Commission: Hampden Superior Court Civil Action No. 1679CV00082. Ms. Roney reported that we have received notice that Edward McGovern is seeking judicial review pursuant to G.L. c. 30A of the Commission's finding against him. McGovern has also moved for a stay of his obligation to pay the civil penalty of \$7,500 imposed by the Commission. We will be filing our Answer and the administrative record. The Commission agreed by consensus to allow the payment of the civil penalty to be stayed pending McGovern's appeal in Superior Court.

ENFORCEMENT DIVISION MATTERS

Enforcement Procedures

Enforcement Division Chief Kelly Downes presented to the Commission the most recent draft of the Enforcement Procedures, which was posted to the website for comments. Neither Ms. Downes nor Ms. Roney received any comments

After discussion, on the motion of Commissioner Mills, seconded by Commissioner Sartory, the Commission voted 4-1 to adopt the 12/16/15 draft of the Enforcement Procedures, with the correction of a typographical error on page 2. Commissioner Quinlan opposed the section regarding the Executive Director's role.

Commissioner Mills commended the Commission staff for the Commission's website and how user-friendly it is. Ms. Nober complimented the Legal Division for doing a good job of preparing the educational materials that are posted on the website and Public Education and Communications Division Chief David Giannotti for making that material easy to find.

Investigations Unit Metrics report

Enforcement Division Deputy Chief/Investigations Katherine Gallant presented the monthly metrics for the Investigations Unit. The Commission had no questions.

EXECUTIVE SESSION

At 9:39 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, subparagraphs (a)(3) and (a)(7) and G.L. c. 268B, §§ 3 and 4. Chairman Dortch-Okara stated that such matters will include investigatory matters, cases deferred, preliminary inquiry recommendations and summons authorization requests, preliminary inquiry reports, advisory opinions, as well as strategy discussions with respect to litigation since an open meeting may have a detrimental effect on the litigating position of the Commission.

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	<u>yes</u>

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 February 17, 2016.
2. Minutes of the State Ethics Commission Meeting for the January 21, 2016 Public and Executive Sessions.

3. Memorandum dated February 11, 2016 from David Giannotti to the Commission concerning Public Education and Communications Division activities for January 2016.
4. Memorandum dated February 12, 2016 from Deirdre Roney to the Commission setting forth Legal Division matters for the meeting.
5. Clean and redlined drafts of revised Enforcement Procedures, dated 12/16/15.
6. Report of Enforcement Division Investigations Unit FY 2016 Metrics.

Respectfully submitted,



Pauline Nguyen
Assistant General Counsel