



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 **June 22, 2016**

One Ashburton Place, Room 619
Boston, MA 02108

PUBLIC SESSION

MEETING CONVENED

Chairman Barbara Dortch-Okara called the meeting to order at 9:07 a.m. Also in attendance were Vice-Chairman William J. Trach, Commissioner David A. Mills and Commissioner Thomas J. Sartory. Commissioner Regina L. Quinlan was not present.

APPROVAL OF MEETING MINUTES

On the motion of Commissioner Mills, seconded by Commissioner Sartory, the Commission voted 4-0 to waive the reading and approve the minutes of the May 25, 2016 public and executive sessions.

EXECUTIVE DIRECTOR'S REPORT

Budget

Executive Director Karen L. Nober reported that the budget situation for the Commonwealth has worsened in the past week. She stated that the Governor's budget office announced that the current FY16 budget will be short by approximately \$320-\$370 million, because the revenues are much lower than was projected. It appears that the revenue expectations for FY17 were overinflated by \$450-750 million; and all three budget proposals – the Governor's, the House's and the Senate's – relied on these overinflated numbers. Ms. Nober reported that the Governor filed an interim spending bill that would provide funding for the first month of FY17, and asked that the Legislature approve it by June 28th. This will give them breathing room to figure out what to do about the entire FY17 budget. Ms. Nober stated that she believes the Commission will be level-funded.

Personnel

Ms. Nober reported that with respect to the hiring of the Enforcement Division Chief, of the eight candidates brought in for initial interviews, five were invited back for a second interview with Enforcement Division Deputy Chief, Investigations Kathy Gallant, Public Education and Communications Division Chief David Giannotti, and CFO/Director of Budget & Administration Michael Memmolo. Subsequently, Ms. Nober, Ms. Roney, Ms. Pruitt-Doncaster, Ms. Gallant, Mr. Giannotti and Mr. Memmolo met to discuss the applicants. There was a general consensus as to the ranking of the candidates. Ms. Nober stated that she is ready to conduct reference checks and make an offer, but as she informed Chairman Dortch-Okara and Commissioner Mills, she has put that on hold. Chairman Dortch-Okara asked whether the hiring team has a runner-up candidate in mind. Ms. Nober responded that they do.

Ms. Nober further reported that one of the Commission's part-time receptionists, Jackie Riden, resigned on June 8th for personal reasons that did not relate to the Commission. She noted that Ms. Riden's resignation has created some difficulties. However, Legal Division Administrative Assistant Theresa Meli Omodei has been really terrific in terms of helping with this situation.

[At 9:11 a.m., Commissioner Quinlan entered the room and joined the meeting.]

Ms. Nober stated that for the time being, Stephanie Slattery, who has been working here on a temporary basis, has agreed to fill in 2.5 days a week at the reception desk while also continuing to provide support to the Enforcement Division. Ms. Nober also stated that we will renew Ms. Slattery's contract for FY17.

Office Improvements

Ms. Nober reported that the Commission has a new front door, which remains closed but unlocked during the day. Nubia Villarroel, the receptionist, has commented that this has improved the noise level significantly. Ms. Nober added that lettering will be added to the new door, and that there will be hardware added to the door so that it will close slowly, rather than slamming shut.

Ms. Nober reported on the replacement of some of the internal office doors. She also reported on the cleaning of the office – all of the floors were stripped and waxed, the carpets were vacuumed and shampooed, the air vents in the conference room and in the reception area were cleaned and a few ceiling tiles were replaced. The books and bookshelves in the conference room were also cleaned. New desks chairs were ordered for all staff who wanted them and for the conference table. We also ordered new computers. Ms. Nober thanked Mr. Memmolo for coming into the office this past weekend and spending an entire day with the cleaning crew.

Revised Technology Policies

Ms. Nober reported on the revised Policy on the Use of Information Technology ("IT") Resources and on Remote Access to IT resources. Ms. Nober stated that in February of 2009, the

Commission delegated to the executive director and the general counsel the authority to approve revised versions of these policies without going through the Commission. Ms. Nober explained that this is the reason she did not schedule a subcommittee meeting on this policy as she mentioned at the May Commission meeting.

Ms. Nober reported that the policies were provided as drafts to all staff and that she had convened an all-staff meeting, where the policies were discussed and good feedback was provided. The policies were edited to address the comments that were made at this meeting. Ms. Nober stated that somebody at the staff meeting brought up a concern about how Commissioners would comply with the policy, and she wanted to make sure that the Policy on the Use of IT Resources did not present any compliance issues for the Commissioners with respect to how they handle the packet materials they receive from us each month. She pointed out paragraph 4 of the Policy, and asked the Commissioners for their thoughts.

The Commission discussed paragraph 1 of the Policy on the Use of IT Resources and specifically the extent to which it authorized monitoring and review of personal computers. After discussion, it was agreed that Ms. Nober would revise that paragraph to clarify that only Commission computers and IT resources, and not personal computers, would be subject to monitoring under the policy.

Proposed Task Force

Ms. Nober stated that the Speaker is filing a resolve to create the task force to look into the conflict of interest and financial disclosure law, our regulations, and the campaign finance law and laws relating to lobbyists. According to State House News, the task force would be required to complete its work and make legislative recommendations by Dec. 23, 2016. Ms. Nober stated that as expected, none of the agencies that oversee these laws are represented on the Task Force, but the Task Force would be required to confer with us and the other agencies, as well as with academics, practitioners and others with expertise in these areas. She added that the December end date provides a fair amount of time to do this type of review carefully and thoughtfully.

Chairman Dortch-Okara asked whether we know what prompted the suggestion that there be a task force in this area. Ms. Nober explained that she has heard some legislators express the view that there are simply too many disclosure requirements. On the other hand, there has been public comment about how there are not enough disclosures. So we need to strike a balance.

Appointment of New Commissioner

Ms. Nober reported that she contacted the Governor's Chief Legal Counsel earlier this month to let him know that Commissioner Trach's term is expiring in October, because the Governor will appoint his replacement. Ms. Nober stated that she will follow up on this at some point. She explained that it typically takes several months to find a new Commissioner, so this is the time of year when she notifies the appointing authority and provides them with general information as to the Commissioner's duties and time commitment.

Next Commission Meeting

Ms. Nober reminded the Commission that the next Commission meeting will take place on Wednesday, July 20, 2016 at 9 a.m., and that at the July meeting, the Commission will need to decide on a schedule for the upcoming September to June Commission meetings.

Chairman Dortch-Okara asked if the meetings starting in the fall – at least through December – could be held on Thursdays. After discussion, the Commission agreed to hold the September Commission meeting on Friday, September 16, 2016.

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 May 2016. He noted that we will participate in series of seminars with the Treasurer's office and OCPF, and that tomorrow would be the first of four seminars. He also reported that he recently completed a training with the Board of Higher education to provide information to new trustees. He added that the program was very successful and well received. With respect to our education and training requirements, Mr. Giannotti reported that we have 100% compliance with those requirements by all elected state and county officials. Only newly elected state and county officials need to meet their mandatory education and training requirements. Mr. Giannotti also reported that the Commission's website was cleaned up, and that recently a list was sent out by mass.gov listing agencies with broken or unusable links. He stated that the Commission was on the list, but was reported to have very few broken links. The Commission had no questions.

LEGAL DIVISION MATTERS

Update on New SFI Electronic Filing Application (Lauren Duca)

Legal Division Deputy Chief/SFI Lauren Duca thanked the Commissioners for all filing their SFIs on time, and was happy to report that the Commission is at 100% compliance. She also provided a brief update on the status of the new SFI application, including the following:

- The Filer Module was opened and available to filers on May 10th. The total number of individuals required to file an SFI for CY 2015 is approximately 3,917. So far, 3,558 filers have filed their SFIs. This number includes filers with deadline extensions, people on hold by the Commission due to technical issues, and people who were added last week as new filers and are not required to file until July. The number of outstanding filers is lower than it has been in prior years.
- We have suppressed sending out the formal notice of lateness. In the next week, the SFI team will reach out to people individually to get them to file their SFIs. After making reasonable efforts to get people to file, the formal notice of lateness will be sent out informing filers that they have 10 days to file their SFIs.
- The opening of the Public Inspection Module has been delayed, due to a technical issue, requiring Commission staff to reach out to about 56 filers to ensure that we properly redact their information.
- The Legal Division is currently working on redacting manually filed SFIs, which will

then be uploaded into the new system.

- The number of SFI-related calls increased 157% in the month of May.

Commissioner Quinlan stated that she felt the new application was easier to use than the old system. Ms. Duca added that she received feedback from the General Counsel at MassIT who expressed that the new system is really good and that she was impressed that the Commission was able to have the new system up in a year. Chairman Dortch-Okara asked Ms. Duca when she expected to be done working on the new system. Ms. Duca responded that the vendor is on warranty until December to fix issues, and that her best guess is that we will be done rolling out the system in mid-July.

Legal Division Metrics for May 2016

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

- **Written advice.** The Legal Division answered by letter or email 50 written requests for advisory opinions under G.L. c. 268A and c. 268B.

For comparison:	May 2015 (same month last year):	47
	April 2016 (previous month):	26

- **Oral advice.** The Legal Division attorneys provided advice by telephone or on a walk-in basis in response to 573 requests for advice from state, county and municipal officials.

For comparison:	May 2015 (same month last year):	652
	April 2016 (previous month):	572

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

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

- **Backlog.** As of today, the Division has 13 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.

Litigation Matters

McClure v. State Ethics Commission: Middlesex Superior Court Civil Action No. MICV2013-04186-L. Ms. Roney reported that judgment in this case was entered, so that the respondent's time to file a notice of appeal has begun to run. The decision entered was very brief.

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. The Commission had no questions.

EXECUTIVE SESSION

At 10:13 a.m., on the motion of Chairman Dortch-Okara, seconded by Commissioner Quinlan, 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, including investigatory matters, cases deferred, a preliminary inquiry report, preliminary inquiry recommendations and summons authorization requests, a private compliance letter, and advisory opinions; and a matter subject to the provisions of G.L. c. 30A, § 21, subparagraph (a)(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	<u>yes</u>

Chairman Dortch-Okara stated that the Commission will reconvene in public session following the executive session.

PUBLIC SESSION

At 1:48 p.m., the Commission resumed its meeting in Public Session.

Pay Increase for the Executive Director

The Commission agreed by consensus to discuss this matter at a meeting to be held next Tuesday, June 28 at 10 a.m., the purpose of which is to continue all remaining matters on the agenda.

MOTION TO ADJOURN

At 1:49 p.m., on the motion of Commissioner Quinlan, seconded by Chairman Dortch-Okara, the Commission voted 5-0 to adjourn the meeting.

LIST OF DOCUMENTS USED AT THIS MEETING

1. Agenda for the Commission Meeting of June 22, 2016.
2. Minutes of the State Ethics Commission Meeting for the May 25, 2016 Public and Executive Sessions.
3. Memorandum dated June 16, 2016 from David Giannotti to the Commission concerning Public Education and Communications Division activities for May 2016.
4. Memorandum dated June 17, 2016 from Deirdre Roney to the Commission setting forth Legal Division matters for the meeting.
5. Calendar of Hearing Dates and Pre-Hearing Conferences in pending Commission Adjudicatory Proceedings.
6. Report of Enforcement Division Investigations Unit FY 2016 Metrics.

Respectfully submitted,



Pauline Nguyen
Assistant General Counsel