

MINUTES OF THE STATE ETHICS COMMISSION MEETING

November 20, 2014

One Ashburton Place, Room 619
Boston, MA 02108

PUBLIC SESSION

MEETING CONVENED

Chairman Barbara Dortch-Okara called the meeting to order at 9:02 a.m. Also in attendance were Commissioners Martin F. Murphy, William J. Trach and Regina L. Quinlan. Newly appointed Commissioner David A. Mills attended and sat in the audience.

APPROVAL OF MEETING MINUTES

On the motion of Commissioner Trach, seconded by Commissioner Quinlan, the Commission voted 3-0, with Commissioner Murphy abstaining because he was absent from the last meeting, to waive the reading and approve the minutes of the October 16, 2014 public and executive sessions.

The Commission had no questions regarding the public session minutes of the October 16, 2014 Audit, Finance and Human Resources Committee meeting.

ELECTION OF NEW VICE-CHAIRMAN

Chairman Dortch-Okara called for a vote to elect Commissioner Murphy as the Commission's new Vice-Chairman. On the motion of Commissioner Quinlan, seconded by Chairman Dortch-Okara, the Commission voted 3-0, with Commissioner Murphy abstaining, to elect Commissioner Murphy as the Vice-Chairman.

EXECUTIVE DIRECTOR'S REPORT

New Commissioner

Executive Director Karen L. Nober introduced Commissioner Mills, who was appointed by Governor Deval Patrick earlier in the month. Ms. Nober reported that Commissioner Mills visited the Commission's offices at the beginning of this week and met nearly everyone on the staff. The Commission welcomed Commissioner Mills.

Budget

Ms. Nober reported that the Governor announced a \$329 million budget deficit, and yesterday announced plans for a 1.5% across-the-board 9C budget cut. She said that the Governor can unilaterally impose budget cuts on executive branch agencies, and he has filed legislation for the same budget cuts for non-executive branch agencies, such as the Commission. Ms. Nober stated that larger agencies, which have larger operating budgets and likely some unfilled positions, will have an easier time managing the budget cut. However, she said, a 1.5% cut, amounting to about \$29,000 for the Commission, is not a sustainable cut for the Commission, given that just over 95% of our budget is for personnel costs. Ms. Nober stated that the Commission could cover a part of the cut by not filling the position that will become vacant once the Enforcement Division Administrative Assistant retires next month until the start of fiscal year 2016, although that would leave the Enforcement Division with no administrative support for the rest of the fiscal year. Ms. Nober stated that we could achieve some savings by not funding the Unit 6 collective bargaining increases, which go into effect on January 1, 2015. Since the Unit 6 increases are processed through the Comptroller's office, Ms. Nober said that she would explore having the Commission's 14 Unit 6 employees take furloughs to recoup the amount of the collective bargaining increases. These steps would still not cover the entire amount of the budget cut. She said that in FY 2013, the Commission was able to manage a 1% 9C budget cut. Ms. Nober said that she also plans to talk with folks in the Legislature about the significant negative impact a 1.5% cut would have on the Commission. Ms. Nober stated that she met with all staff yesterday to discuss the potential budget cut, including the possibility that Unit 6 employees may have to forego their January 2015 increase.

Personnel Manual

Ms. Nober reported that the Commissioners received the proposed revised Personnel Manual in their packets, and they will be asked to vote on the manual during the Legal Division portion of today's meeting. Ms. Nober stated that since she began working at the Commission seven years ago, revisions to the Personnel Manual have been one of her top priorities. She said that she, Chief Financial Officer Michael Memmolo, General Counsel Deirdre Roney and Assistant General Counsel Pauline Nguyen put a lot of hard work into the revised policy, and that she is pleased with the final product.

Proposed Legislation

Ms. Nober reported that later in today's meeting Commissioners will be asked for their feedback on proposed legislation that would allow the Commission to share information with the Office of Campaign and Political Finance and the Office of the Inspector General as long as that information would remain subject to Commission's statutory confidentiality restrictions. Ms. Nober said that the commission had proposed similar legislation to the Governor's Public Integrity Task Force formed in 2008, and the Task Force included similar language in its proposed ethics reform legislation, but that it did not get included in the final bill. Ms. Nober stated that there are times when we get complaints that would be appropriate for referral to

OCPF or the IG's office and there is currently no mechanism to do so. She noted that the IG's office does share information with us.

Next Meeting

Ms. Nober stated that the next Commission meeting will be held on Thursday, December 18, 2014 at 9:00 a.m. She said that she would contact all of the Commissioners regarding a farewell party for former Commissioner Paula Finley Mangum sometime in January.

Chairman Dortch-Okara stated that Commission meetings will continue to be held at 9:00 a.m. on the third Thursday of every month through June 2015, and Commissioners can revisit the schedule again in the summer.

PUBLIC EDUCATION DIVISION MATTERS

Public Education and Communications Division Chief David Giannotti presented his report of Public Education and Communications Division activities for the month of October 2014. Mr. Giannotti stated that the new compliance cycle for the conflict of interest law education and training requirements is set to begin next month, and that the Division will meet soon to discuss the best way to accommodate any turnover in personnel as a result of the November elections.

LEGAL DIVISION MATTERS

SFI Status Report and Current Projects

Legal Division Deputy Chief/SFI Lauren Duca presented a report on the status of the SFI filing season and the ongoing project to replace the Commission's SFI electronic filing system. Ms. Duca stated that the calendar year 2014 filing season began in September and is well underway, with educational forums and meetings with agency liaisons. Ms. Duca said that the SFI Team began using webinars this year to reach out to agencies, which she said seems particularly helpful for those in western Massachusetts. Ms. Duca also said that the SFI Team is in the process of reviewing agency designation lists, and will send reminders to agencies if their lists are not submitted close to the December 16, 2014 due date. Ms. Duca reported that she and SFI Administrator and Analyst Robert Milt are working on drafting a letter to be distributed to OCPF and the Secretary of State's Office, which would be given to political candidates who will be required to file SFIs.

Ms. Duca provided an update on the SFI electronic filing system project, and stated that she, Mr. Milt, Information Technology Specialist Tony Webb and Mr. Memmolo have been meeting weekly with the MassIT project advisor and that the Commission has hired a project manager. Ms. Duca reported that she would like the system to be operational by October 2015 so that the calendar year 2014 filing season is the final one with the current system. General Counsel Deirdre Roney stated that the Legal Division is working to prepare materials regarding SFI filing so that those beginning jobs with the new administration may be aware of the filing requirement

before they accept their positions. Commissioner Quinlan asked whether the budget deficit will affect the system replacement project, and Ms. Duca responded that the project will not be affected, as it is being paid for with bond monies.

Personnel Manual

Ms. Roney presented a memorandum regarding proposed changes to the Commission's Personnel Manual, as well as the complete manual with proposed changes included. Ms. Roney reported that the manual, as revised, includes changes to the Commission's permitted work hours, an updated flex time policy and clarified language regarding the use of sick, personal and vacation time. The revised version also removes information that is out of date. Commissioner Trach asked Ms. Nober how she communicated the changes to staff. Ms. Nober reported that she met with all staff after the first Audit, Finance and Human Resources Committee meeting to discuss the proposed changes and the reasons for them, and while some staff members expressed concern with the changes to the work hours, others had positive reactions to the changes. After discussion by the Commission, on the motion of Commissioner Trach, seconded by Chairman Dortch-Okara, the Commission voted 4-0 to approve the revised Commission Personnel Manual, in the form presented to the Commission at its November 20, 2014 meeting with a typographical correction, effective January 1, 2015; provided, that employees who have compelling circumstances that would support the need for a reasonable, additional period of time beyond January 1, 2015 to adjust their work schedules to conform to the permitted work hours in the revised Personnel Manual may submit a request to the Executive Director to approve such additional time, which may be granted in the Executive Director's sole discretion.

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

Proposed Legislation

Ms. Roney presented a draft proposing information-sharing legislation which would allow the Commission to share information with the Inspector General and the Director of the Office of Campaign and Political Finance regarding complaints that could fall under each agency's respective jurisdiction. Ms. Roney stated that the draft legislation would require the agencies involved to enter into a memorandum of understanding that will address confidentiality requirements whenever information is shared. Commissioner Trach suggested changes to the draft as well as a removal of the final clause. The Commission agreed with the revisions. Upon discussion by the Commission, the Commission agreed by consensus that staff should continue to support the proposed draft as revised.

Legal Division Metrics

Ms. Roney presented the following Legal Division metrics for October 2014:

- **Written advice.** The Legal Division answered by letter or email 53 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
	October 2013 (same month last year):	37
	September 2014 (previous month):	51

- **Oral advice.** During this same period, Legal Division attorneys provided legal advice by telephone or on a walk-in basis to 450 state, county and municipal officials.

For comparison:	2008 monthly average (pre Ethics Reform):	280
	2010 monthly average (post Ethics Reform):	450
	October 2013 (same month last year):	484
	September 2014 (previous month):	419

- **Review of municipal letters.** The Legal Division reviewed 10 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
	October 2013 (same month last year):	2
	September 2014 (previous month):	3

- **Backlog.** As of today, there are 3 pending requests for written advice that are more than 30 days old, the oldest of which was received on September 29, 2014. We have a total of 21 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.

Adjudicatory Matters

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

Litigation Matters

Ms. Roney reported that on March 21, 2014, we answered Richard McClure's complaint seeking judicial review of the Commission's August 2, 2013 decision that he violated c. 268A, § 17. His motion for judgment on the pleadings was due to be filed by April 24, 2014. Ms. Roney stated that Legal Division Deputy Chief David Wilson has been in contact with the court and has attempted to contact Mr. McClure regarding the Commission's plan to dismiss the complaint for failure to prosecute.

ENFORCEMENT DIVISION MATTERS

Attorney Metrics and Investigations Unit Metrics

Ms. Downes presented the monthly report of Investigations Unit activities for October 2014. Enforcement Division Deputy Chief/Investigations Katherine Gallant stated that in the final weeks of 2014, she will meet with investigators and push to get some of the older complaints resolved. .

EXECUTIVE SESSION

At 10:05 a.m., on the motion of Chairman Dortch-Okara, seconded by Commissioner Quinlan, the Commission voted 4-0 to enter into executive session to discuss strategy with respect to litigation since a discussion in an open meeting may have a detrimental effect on the litigation position of the Commission; and matters subject to the provisions of G.L. c. 30A, § 21, subparagraph (a)(7) and G.L. c. 268B, §§ 3 and 4. Chairman Dortch-Okara stated that these matters will include investigatory matters, cases deferred, preliminary inquiry recommendations and reports, summons authorization requests, disposition agreements, public and private education letters, advisory opinions and deliberations.

VOTE:	Chairman Dortch-Okara	yes _____
	Commissioner Murphy	yes _____
	Commissioner Trach	yes _____
	Commissioner Quinlan	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 November 20, 2014.
2. Minutes of the State Ethics Commission Meeting for the October 16, 2014 Public and Executive Session.

3. Minutes of the Audit, Finance and Human Resources Committee Meeting for the October 16, 2014 Public Session.
4. Memorandum dated November 14, 2014 from David Giannotti to the Commission concerning Public Education and Communications Division activities for September 2014.
5. Memorandum dated November 14, 2014 from Deirdre Roney to the Commission setting forth Legal Division matters for the meeting.
6. Memorandum dated November 13, 2014 from Deirdre Roney to the Commission regarding the Personnel Manual Updates and Revisions.
7. Revised and updated State Ethics Commission Personnel Manual, redlined.
8. Revised and updated State Ethics Commission Personnel Manual.
9. Draft Proposed Information-Sharing Legislation.
10. Calendar of Hearing Dates and Pre-Hearing Conferences in pending Commission Adjudicatory Proceedings.
11. Report of Enforcement Division Investigations Unit Metrics, dated November 4, 2014.

Respectfully submitted,

Marisa Donelan
Public Education and Communications
Division Deputy Chief