



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 **January 21, 2016**

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 William J. Trach, Regina L. Quinlan (participating remotely), David A. Mills and Thomas J. Sartory.

REMOTE PARTICIPATION

Chairman Dortch-Okara announced that the Commission previously voted to authorize remote participation on December 16, 2011; that Commissioner Quinlan will participate remotely in the entire meeting; that the reason for Commissioner Quinlan's remote participation is a personal illness; and that this reason for remote participation is permissible under 940 CMR 29.10(5).

Chairman Dortch-Okara noted that all votes taken at this meeting would be by roll call.

APPROVAL OF MEETING MINUTES

On the motion of Vice-Chairman Trach, seconded by Commissioner Mills, the Commission voted 5-0 to waive the reading and approve the minutes of the December 16, 2015 public and executive sessions.

VOTE:	Chairman Dortch-Okara	yes___
	Vice-Chairman Trach	yes___
	Commissioner Quinlan	yes___
	Commissioner Mills	yes___
	Commissioner Sartory	yes___

EXECUTIVE DIRECTOR'S REPORT

Budget

Executive Director Karen L. Nober reported that the Governor announced mid-year budget cuts of \$50 million in order to partially address a \$320 million deficit in the FY16 budget, but the cuts did not affect the Commission. She stated that it appears that the administration plans to rely on projected increases in revenues to make up the difference this fiscal year. Ms. Nober further stated that it has been reported that the Commonwealth could face a \$1 billion budget gap for FY 2017, and, therefore, she expects next year's budget to be very tight. She added that if the Commission's budget for FY17 is something less than level-funding, it will be problematic for the agency. Ms. Nober also reported that last week she and CFO Michael Memmolo had separate meetings with the Senate Ways and Means budget analyst and with the House Ways and Means budget analyst.

Personnel

Ms. Nober noted that she previously spoke to the Commission about hiring a Director of Communications. She said that because of the uncertainty regarding the state's budgetary situation, she put the hiring process on hold and sent letters to all of the applicants notifying them. She said she did this just before the Governor announced his mid-year budget cuts, and even though the Commission was not affected by those cuts, she did not want to fill the position this year until she knows what our budget is for next year and whether we will be able to financially support the position in FY17. She said that once she has a better sense of what our FY17 budget will be, she will re-post the position if it looks like we will have funding for it next year. Chairman Dortch-Okara asked if the new Director of Communications position involved a higher salary than the Deputy Chief position it is replacing. Ms. Nober said that, although the position is a backfill of the deputy position, it will have a higher salary since the position has been reconfigured to now be a direct report to the Executive Director, and its job duties have changed.

Audit

Ms. Nober reported that the State Auditor's Office is almost done with its performance audit of the Commission. The Commission has been providing the additional information they have requested. The Auditor's Office will provide the Commission with a draft report once it is complete, and we will have the opportunity to comment on the report.

Event for Former Commissioner Murphy

Ms. Nober proposed Wednesday, February 17, or Thursday, February 18, beginning around 5 p.m., as possible dates to hold a farewell party for former Commissioner Murphy. After discussion, the Commissioners agreed to host the event on Wednesday, February 17.

Next Commission Meeting

Ms. Nober reminded the Commission that the next Commission meeting will be held on February 17. Vice-Chairman Trach mentioned that he will be out of town during the week of the March Commission meeting. After discussion, the Commission agreed to hold the March Commission meeting on Wednesday, March 23. Chairman Dortch-Okara requested that Ms. Nober send an email reminder to the Commission, and Ms. Nober said she would do so.

Commissioner Mills thanked Ms. Nober and Mr. Memmolo for their work relating to the budget, stating that he recognized that it is difficult work.

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 December 2015. He stated that in the past years, attendance at in-house seminars has decreased, which he attributes to the availability of the Commission's online training. Therefore, he now conducts these trainings on a bi-monthly basis. He reported that last week, he sent out his quarterly email to agencies regarding the education requirements and received a good response. He is currently reviewing a request from the Lawrence City Council to do a Saturday seminar. Mr. Giannotti stated that he is pleased to report that in just the second half of the fiscal year, the Commission has booked 56 seminars. He expects the number of seminars to exceed last year's numbers.

Mr. Giannotti also reported the following regarding the status of compliance with education and training requirements: 27 of 36 elected county officials and 87 of 279 elected state officials have submitted acknowledgments of their receipt of the summary of the conflict of interest law. Chairman Dortch-Okara asked where the agency keeps these records. Mr. Giannotti responded that he maintains an electronic spreadsheet and also retains individual emails. The Commission had no other questions.

LEGAL DIVISION MATTERS

Development of New SFI Filing and Management Application (Lauren Duca)

General Counsel Deirdre Roney reported that the agency is nearing the point where agencies notify the Commission of new SFI filers, and before opening the Liaison Module to the Liaisons, the SFI team has been working to get the new application in the best possible shape. She stated that converting the old data from the legacy system to the new system was a lot of work and she commended Legal Division Deputy Chief/SFI Lauren Duca, SFI Administrator and Analyst Robert Milt, Legal Division Administrative Assistant Theresa Meli Omodei, IT Specialist Tony Webb, CFO Michael Memmolo and Assistant General Counsel Pauline Nguyen for their hard work over the past month to assist with data conversion.

Ms. Duca reported on the current status of the new SFI Filing and Management Application. She reported that the SFI Team worked on data conversion and cleaning up the data from the old legacy system; that the Liaison Module is expected to be open during the week of January 11, 2016; that a comprehensive Liaison Training Manual is being finalized, and that she is putting together an instruction sheet for Liaisons; that our accessibility tester vendor will complete

testing of the fourth and final module, the Public Inspection Module, this month; that she will be contacting liaisons who use assistive technology to discuss options for completing their CY 2015 Designation Lists and for assistance in testing the accessibility of the new system.

Ms. Duca also stated that the SFI team is considering providing some form of training to filers, and asked the Commission what form of training they felt would be useful. Chairman Dortch-Okara asked what the options would be. Ms. Duca responded that it could be a video or a written manual.

[9:29 a.m., Commissioner Quinlan was briefly disconnected and then came back onto the call.]

CFO Michael Memmolo briefly described Texas' training video for their new SFI application. Chairman Dortch-Okara stated that people would like the video because it would help filers get into the system. She asked whether there would be guidance for filers on the application. Ms. Duca explained that the new application contains the instructions for each question, help bubbles and pop-ups that help guide filers while they are filling out the SFI form.

Vice-Chairman Trach stated that when deciding what type of guidance and training to provide, the amount of time it takes to create the training could be weighed against the amount of overall staff time could be saved in the future with such a training.

Commissioner Mills stated that he recently completed the online training and commended the Commission on the quality of the online training. He found it to be very user-friendly. Chairman Dortch-Okara asked Ms. Duca to convey the Commission's appreciation of the staff working on the SFI project.

Legal Division Metrics for December 2015

General Counsel Deirdre Roney presented the following Legal Division metrics for December 2015. The Commission had no questions.

- **Written advice.** The Legal Division answered by letter or email 42 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
	December 2014 (same month last year):	43
	November 2015 (previous month):	27

- **Oral advice.** The Legal Division attorneys provided advice by telephone or on a walk-in basis in response to 386 requests for advice from state, county and municipal officials.

For comparison:	2008 monthly average (pre Ethics Reform):	280
	2010 monthly average (post Ethics Reform):	450
	December 2014 (same month last year):	375
	November 2015 (previous month):	352

- **Review of municipal letters.** Division staff review 5 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
	December 2014 (same month last year):	2
	November 2015 (previous month):	0

- **Backlog.** As of today, the Division has 12 pending requests for written advice that are more than 30 days old, of which the oldest was received on May 8, 2015. There are a total of 18 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.

Enforcement Procedures

Vice-Chairman Trach asked about the status of the Enforcement Procedures. Ms. Roney reported that a redlined version and a clean version of the Enforcement Procedures have been posted along with a note that the revised draft of the Procedures is open for comments until February 8. She said that so far we have received no comments. Ms. Roney stated she and Enforcement Division Chief Kelly Downes would report on any comments at the next Commission meeting.

Commissioner Quinlan cited some cases discussing the issue of the presence of third parties during deliberations in an adjudicatory process, and stated that she continues to think that this is an important issue and needs to be resolved. Ms. Roney stated that the Enforcement Procedures will be on the agenda at the February meeting so that the Commission can further discuss it.

Litigation Matters

McClure v. State Ethics Commission: Superior Court Civil Action No. MICV2013-04186-L. Ms. Roney reported on the status of this case. The Commission had no questions.

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 the backlog has increased. The Investigations Unit did significant work to decrease the number of cases in the backlog, including meeting to strategize on how to do so. However, with one investigator out and one investigator working on a complicated investigation, the Investigations Unit has been affected. The Commission had no questions.

Attorney Metrics

Enforcement Division Chief Kelly Downes presented quarterly attorney metrics. The Commission had no questions.

EXECUTIVE SESSION

At 9:47 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, a recommendation to partially vacate a reasonable cause vote, advisory opinions and deliberations, 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 January 21, 2016.
2. Minutes of the State Ethics Commission Meeting for the December 16, 2015 Public and Executive Sessions.
3. Memorandum dated January 14, 2016 from David Giannotti to the Commission concerning Public Education and Communications Division activities for December 2015.
4. Memorandum dated January 15, 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.
7. Report of Enforcement Division Attorney FY 2016 Metrics.

Respectfully submitted,

A handwritten signature in blue ink that reads "Pauline Nguyen". The signature is written in a cursive, flowing style with a small flourish at the end.

Pauline Nguyen
Assistant General Counsel