

MINUTES
COMMISSION MEETING
OPEN SESSION

November 16, 2011

The meeting was called to order by Vice Chair Kay Biermann Brohl at 9:41 a.m. Other members present were Commissioners Richard H. Fitzgerald, Edward E. Duryea, Priscilla L. Tanner, and JB Holeman. Commissioner G. Carlton Manley was running an hour late. Chairman Phillip Florence, Jr. and Commissioner Jonathan H. Burnett were absent. In order to facilitate certain people attending the meeting, Vice Chair Brohl stated that the agenda would be taken out of order.

Staff present:

Mr. Herbert R. Hayden, Jr., Executive Director
Mrs. Cathy L. Hazelwood, Deputy Director/General Counsel
Mrs. Ami R. Franklin, Assistant Director, Administration
Mr. Daniel F. Choate, Investigator
Ms. Kristin M. Smith, Administrative Coordinator
Mrs. Karen A. Wiggins, Administrative Specialist

Others present:

Yvonne Wenger
Gina Smith
Mike Campbell
Todd Kincannon
Maggie Murdock
Matthew Richardson

MINUTES

Motion was made by Mr. Duryea to accept the Minutes as presented. Motion was seconded by Mrs. Tanner. The motion carried with no opposition to approve the Open and Executive Session Minutes from the September 21, 2011, Commission meeting.

OFFICE OPERATIONS

Compliance Reports

Mr. Hayden advised the Commissioners that this was the last day to get State Ethics Commission license plates.

Mr. Hayden then presented the Compliance Reports for September and October, 2011, as information only. The Commissioners asked questions and discussions ensued. There were no changes and approved as presented.

Budget 2011/2012

Mr. Hayden presented the budget report as information only. The Commissioners asked questions and discussions ensued. Gina Smith from *The State* and Yvonne Wenger from *The Post and Courier* were recognized. There were no changes and approved as presented.

ADVISORY OPINION

Mr. Hayden next announced a change in the order of business on the Agenda by letting Mrs. Hazelwood present an Advisory Opinion.

Mrs. Hazelwood presented to the Commission an issue concerning Valuing Flights as Gifts and Campaign Contributions. Mr. Holeman asked for clarification between gifts vs. campaign contributions, Dr. Fitzgerald asked for open discussion to clarify statewide business on private flights, and Mr. Duryea asked for further clarification on flights as gifts. Extensive discussions ensued. Vice Chair Brohl asked for further questions, and there being none, a motion was made by Dr. Fitzgerald, seconded by Mrs. Tanner, that the value of the flight should be calculated as the average cost per hour to operate the aircraft times the number of hours of the flight. The motion carried with no further discussion or opposition.

MOTIONS

R. Michael Campbell

Attorney Todd Kincannon presented this matter to the Commission on behalf of the Respondent, R. Michael Campbell. There was lengthy testimony from Mr. Campbell and many questions from the Commissioners. Mrs. Hazelwood explained to the Commissioners how the penalty amount was established. Mr. Duryea and Dr. Fitzgerald had procedural questions, and Mr. Manley stated he would not vote since he just came in. Dr. Fitzgerald asked to make a motion, but further discussion ensued. Vice Chair

Brohl asked about the time line of finding out about the violation and in complying. Further discussion ensued. After a break and further discussion, Vice Chair Brohl asked for a motion. Dr. Fitzgerald asked about recusing himself because he was on a hearing panel about this matter. Mr. Hayden and Mrs. Hazelwood explained there was no problem because this was not an appeal process but a motion matter. There was further discussion by all the Commissioners on the time line of events. Dr. Fitzgerald made a motion, seconded by Mr. Duryea, charging Mr. Campbell \$5,000 inclusive of everything. Vice Chair Brohl and Mr. Holeman opposed. Mr. Manley did not vote. Mr. Holeman asked for a discussion. Discussion ensued. Dr. Fitzgerald asked to amend his motion, seconded by Mr. Duryea, to have the \$5,000 inclusive of everything penalty paid within 30 days or the amount goes back to the original penalty. Vice Chair Brohl asked for a vote on this amended motion. Mr. Manley did not vote. The amended motion carried with no further discussion or opposition.

Elliott Sumney

Ms. Hazelwood presented this matter to the Commission, stating for the record that this matter has been continued until the January, 2012, Commission meeting.

APPEALS

Mr. Hayden asked for the Commission to review the facts and documents on each of the Appeal cases in their material. Mr. Hayden reminded the Commissioners that Kristin or he will answer any questions, but won't make any presentation.

State Ethics Commission vs. Sylvia Ard

Mr. Duryea made a motion to accept the staff recommendation to deny the appeal and a late filing penalty of \$100 be assessed, seconded by Mrs. Tanner. The motion carried with no discussion or opposition.

State Ethics Commission vs. Jimmy D. Brickle

Commissioners asked questions and discussion ensued. Mr. Manley made a motion to accept the staff recommendation to deny the appeal, seconded by Mr. Holeman. The motion carried with no opposition.

State Ethics Commission vs. Steve Brockman

Mr. Manley made a motion to accept the staff recommendation to deny the appeal and a late filing payment of \$100 be assessed, seconded by Mrs. Tanner and Mr. Holeman. The motion carried with no discussion or opposition.

LOBBYING DOLLAR LIMITATIONS

In accordance with Section 2-17-90 (B)(2), Mr. Hayden presented for information only the matter involving the required review of the daily/yearly dollar limitation for Lobbyist Principals. He stated that after reviewing this year's Consumer Price Index over the previous two years, the daily dollar limitation remains at \$60.00 and yearly limitation at \$480. There were no changes and approved as presented.

OTHER BUSINESS

Mrs. Brohl asked to go on record and recognize the State Ethics Commission staff for their efforts processing the material for the Commission meeting books, putting together a timeline for the Complaint matters, and providing the refreshments/snacks for the Commission meeting. Dr. Fitzgerald, Mr. Duryea, Mrs. Tanner, Mr. Manley, and Mr. Holeman also commended the staff for their actions.

EXECUTIVE SESSION

Vice Chair Brohl asked for a motion to go into Executive Session to consider Complaint matters. A motion was made by Mr. Duryea to go into Executive Session, seconded by Mrs. Tanner and Mr. Holeman. The motion carried.

RETURN FROM EXECUTIVE SESSION

Upon return from Executive Session, a motion was made by Mr. Duryea to adopt and ratify actions taken in Executive Session, seconded by Mr. Holeman. The motion carried.

ADJOURNMENT

A motion was made by Mr. Manley to adjourn, seconded by Mrs. Tanner. The motion carried.

Respectfully submitted,

Karen A. Wiggins
Administrative Specialist