

**MINUTES**  
**COMMISSION MEETING**  
**OPEN SESSION**

July 20, 2011

The meeting was called to order by Vice Chair E. Kay Biermann Brohl at 9:40 a.m. Other members present were Commissioners Richard H. Fitzgerald, Edward E. Duryea, JB Holeman, Jonathan H. Burnett, Priscilla L. Tanner, and G. Carlton Manley. Chairman Phillip Florence, Jr., was absent.

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  
Mr. Don Lundgren, Investigator  
Ms. Kristin M. Smith, Administrative Coordinator  
Mrs. Karen A. Wiggins, Administrative Specialist

**MINUTES**

Vice Chair Brohl asked for a motion to approve the Minutes of the May 18, 2011, Commission meeting. Commissioner Burnett asked to add to today's Agenda for discussion an update concerning procedures and such at the May 18 Commission meeting. Vice Chair Brohl asked that Commissioner Burnett's request be placed under Old Business on today's Agenda and be discussed then. There was no opposition.

Motion was made by Commissioner Manley and seconded by Commissioner Tanner to approve the Open and Executive Session Minutes from the May 18, 2011, meeting. The motion carried.

## **OFFICE OPERATIONS**

### **Compliance Reports**

Mr. Hayden presented the compliance reports for May and June, 2011, as information only.

Commissioner Burnett requested information on the payment of the Ard penalties. Mr. Hayden informed the Commissioners that they would be reflected in the Compliance Report ending July 31, 2011.

Commissioner Manley requested clarification--and Mr. Hayden complied—on the change made to the Ethics Commission's *Complaint Received by the Commission* Flow Chart in everybody's material.

### **Budget FY 2010/2011 and 2011/2012**

Mr. Hayden presented the budget report as information only. Mr. Hayden responded to numerous requests from the Commissioners concerning figures from the 2011 Fiscal Year Summary Report and the 2012 Fiscal Year Summary Report.

## **OLD BUSINESS**

Vice Chair Brohl asked at this time that the Commission take up Commissioner Burnett's concerns about the Appeals voting procedures and discussions during Open vs. Executive Sessions. Commissioner Burnett noted that the Minutes did reflect accurately the events as they happened at the last Commission meeting, and asked Mrs. Hazelwood if she had a chance to contact the Attorney General's office. Mr. Hayden responded that the Appeal process is being changed to let the Commissioners review the Appeals strictly on the record. Staff will change the policy to reflect that filers are given the opportunity to appeal in writing. Staff will provide a memo to the Commissioners in writing with its position and present both to the Commissioners. The Commissioners will make a decision based on the record.

## **LEGISLATION**

Presentation was made by Mr. Hayden to the Commission on the bill signed by the Governor on June 7, 2011, amending the law to place a \$5,000 cap on penalties. There was considerable discussion on new orders vs. grandfathering in old orders which are to be heard before the Commission.

There was considerable discussion on unlimited administrative and investigative charges.

Vice Chair Brohl asked that because this issue is new, it be taken up again at the next meeting, and all agreed.

## **APPEALS**

Vice Chair Brohl asked that they now take up any appeals.

**State Ethics Commission vs. Robert C. Norwood**

Mr. Hayden presented information to the Commission regarding this appeal. A motion was made by Commissioner Burnett, seconded by Commissioner Tanner, to accept staff recommendation. Opposing were Commissioners Duryea, Manley, Fitzgerald, and Holeman. Motion failed after further discussion. Commissioner Holeman moved that they not accept staff recommendation, but dismiss the case. Motion failed for lack of a second. After further discussion, Commissioner Holeman then moved that Mr. Norwood be guilty of being late and waive the May 19, 2011, fine, if he complies by paying the first \$100 fine within 30 days. If not, then he owes \$200. Commissioner Manley seconded the motion. The motion carried, with Commissioner Burnett opposing.

**State Ethics Commission vs. Stephen C. Whaley**

Mr. Whaley did not appear. Commissioner Manley moved that they accept staff recommendation to deny the appeal, seconded by Commissioner Duryea. Motion carried.

**OTHER BUSINESS**

Mr. Hayden presented for information and as a handout a news article concerning the Ard investigation found in the Charleston Mercury entitled "Ard Is Test Case for SC GOP." Various discussions were held on providing false information during an investigation and whether the Commission should respond to media articles.

All agreed to let Mr. Hayden and Mrs. Hazelwood draft something within 10 days for the Commissioners to look at and then decide whether to send it or drop the matter.

**EXECUTIVE SESSION**

A motion was made by Commissioner Burnett, seconded by Commissioner Duryea to go into Executive Session. The motion carried.

**RETURN FROM EXECUTIVE SESSION**

Upon return from Executive Session, a motion was made by Commissioner Duryea, seconded by Commissioner Manley, to adopt and ratify actions taken in Executive Session. The motion carried. Commissioner Burnett wanted to put on the Agenda for the next Commission Meeting the matter of finding out the percentage rate of success; i.e., late filers, complaints, failure to file on SEIs and CDs. He further clarified by asking how many of these are getting fined. Mrs. Hazelwood said it was less than one percent. She has to show on the Accountability Report every year how many of the

proceedings are failure of the filers to comply. Mr. Hayden summed it up by saying 99.9 percent of the filers do it right. A breakdown will appear in the next Commission meeting's material.

**ADJOURNMENT**

A motion was made by Commissioner Burnett, seconded by Commissioner Duryea to adjourn. The motion carried.

Respectfully submitted,

Karen A. Wiggins  
Administrative Specialist