

MINUTES
COMMISSION MEETING
OPEN SESSION

March 21, 2012

The meeting was called to order by Vice Chair E. Kay Biermann Brohl at 9:37 a.m. Other members present were Commissioners Jonathan H. Burnett, Edward E. Duryea, Richard H. Fitzgerald, JB Holeman, G. Carlton Manley, and Priscilla L. Tanner. Chairman Phillip Florence, Jr., arrived until 10:28 a.m.

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

There were no other persons present.

MINUTES

Motion was made by Dr. Fitzgerald, seconded by Mr. Burnett, to accept the Minutes as presented. The motion carried to approve the Open and Executive Session Minutes from the January 18, 2012 Commission meeting. Mr. Duryea abstained because he was not present at that meeting.

OFFICE OPERATIONS

Budget 2011/2012

Vice Chair Brohl asked Mr. Hayden to present the Office Operations. Mr. Hayden presented the budget information for July 1, 2011 to March 19, 2012. Mr. Hayden then updated the Commissioners on budget legislation, operation costs, and the electronic filing system. Discussions ensued from the Commissioners concerning their 2012 electronic filing experiences. Mr. Hayden and Ms. Hazelwood asked that the Commissioners go back and do a Statement of Economic Interests report, writing down the parts where they have a problem or question. These would be collected by the staff and used in going forward to improve the electronic filing system.

Other Business

Mr. Duryea asked to go on record agreeing with a recent article praising the SC State Ethics Commission for its low corruption level.

Compliance Report

Mr. Hayden presented the Compliance reports for January and February, 2012, as information only.

APPEALS

Mr. Hayden reminded the Commissioners of the new policy that staff has provided copies of a summary of each individual's background, information on the penalties and staff recommendation, copies of the letters of appeals from the individuals, and then any supportive documentation and correspondence that may be applicable to the case. The appeal statement is in writing, staff recommendation is in writing, and unless there are questions, there will be no presentation or verbal recommendation.

Christine B. Gourley

Mr. Hayden asked for the Commission to review the facts and documents on this case. Mr. Manley made a motion to accept the staff recommendation to deny the appeal and a late filing payment of \$100 be collected, seconded by Mrs. Tanner. The motion carried with no discussion or opposition.

Janice Boatwright

Mr. Hayden asked for the Commission to review the facts and documents on this case. Mr. Burnett asked for clarification if the penalty had been paid. Staff responded it had been paid. Mr. Burnett made a motion to accept the staff recommendation to deny the appeal, seconded by Mrs. Tanner. There was discussion concerning entities paying penalties. Vice Chair Brohl asked for further discussion, there being none, the motion carried with no opposition.

Joseph E. McMullen

Mr. Hayden asked for the Commission to review the facts and documents on this case. Mr. Holman made a motion to accept the staff recommendation to deny the appeal, seconded by Mr. Duryea. The motion carried with no discussion or opposition.

Dave Parson

Mr. Hayden asked for the Commission to review the facts and documents on this case. 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 Mr. Holman. The motion carried with no discussion or opposition.

MOTION TO DISMISS

C2012-033 State Ethics Commission vs. Constance Holmes

Mr. Hayden stated that a motion was never filed in this case, so the matter would not be heard today.

OTHER BUSINESS

Mr. Hayden commended all the Commissioners for total compliance in filing their 2012 Statements of Economic Interests reports as of March 15, 2012.

ADVISORY OPINION

SEC AO2012-002 Conflict of Interest, March 21, 2012

Mrs. Hazelwood presented to the Commission a statement of events in this matter for their review. Questions were asked and discussions ensued as to conflicts of interest and business with which associated. Mr. Burnett moved that the Commission accept the Advisory Opinion as written, seconded by Mr. Manley. Vice Chair Brohl asked for further discussion, and there being none, the motion carried with no opposition.

DISCUSSION

Chairman Florence took over procedures at this time, and thanked Vice Chair Brohl for filling in.

Electronic Filing

Mr. Hayden stated that the next item on the Agenda was the matter of the electronic system, and then explained that this had already been discussed earlier. Vice Chair Brohl gave a status report to Chairman Florence of the earlier discussion, and the decision for each Commissioner to do a Statement of Economic Interests report, listing any questions or problems, and then submitting it to the staff.

Legislation

Mr. Hayden presented current legislative issues affecting the Commission. There was considerable discussion on appointments to Boards and Commissions. Staff was asked to continue monitoring these issues. Discussions ensued.

H.3248 – Changes the statute of limitations from 4 years from the alleged violation to 4 years after the public official leaves office. It is still sitting in a Senate subcommittee.

S.593 – Amends the Statute to change the definition of committee to conform with the federal court's ruling in the SCRG and Citizens for Life cases. Mr. Hayden clarified that currently, if the main purpose of a group's existence is not to influence an election— even if they collect and give money to influence an election-- they are not a committee and are not under the Commission's jurisdiction. Ms. Hazelwood stated that someone could come along and challenge that, and the group would have to provide evidence of their primary purpose.

State Integrity Investigation - www.stateintegrity.org

Mr. Hayden presented an update on the news article that gave South Carolina a B in Lobbying, but an F in Ethics. Discussions ensued. After hearing comments, Ms. Hazelwood stated that she would communicate the Commission's concerns.

New Appointments

Mr. Hayden presented an update on new appointments, stating that there would be no new appointments that might be affected by the new congressional districts until after the issue of the new congressional districts is decided. Discussion ensued as to the timeframe for this decision and its affect on the Commission's current Board. Mr. Hayden took this opportunity to thank each of the Commissioners for continuing to serve, so that a quorum could be present to handle any meetings.

There being no further discussions, these matters were approved as presented.

EXECUTIVE SESSION

Chairman Florence asked for a motion to go into Executive Session. A motion was made by Mr. Duryea, seconded by Mr. Holeman, to go into Executive Session. The motion carried.

RETURN FROM EXECUTIVE SESSION

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

ADJOURNMENT

A motion by consensus was made to adjourn. There was unanimous consent. The motion carried with no opposition.

Respectfully submitted,

Karen A. Wiggins
Administrative Specialist