

MINUTES
COMMISSION MEETING
OPEN SESSION

March 20, 2013

The meeting was called to order by Chairman Phillip Florence, Jr., at 9:54 a.m. Other members present were Vice Chair E. Kay Biermann Brohl, Jonathan H. Burnett, Richard H. Fitzgerald, Priscilla L. Tanner, and James I. Warren, III. G. Carlton Manley arrived at 10:35 a.m.

The news media was duly notified.

Staff present:

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

Others present:

Grant Duffield

Chairman Florence welcomed and introduced the State Ethics Commission's newly-appointed Commissioner, James I. Warren, of the Fourth District. Mr. Hayden then presented and read a statement from J B Holeman, former Commissioner of the Fourth District. An invitation was given to Mr. Holeman to attend the Open Session, but he was unable to attend.

Chairman Florence then proceeded with the Agenda.

MINUTES

Motion was made by Mr. Burnett, seconded by Dr. Fitzgerald, to accept the Minutes as presented. Vice Chair Brohl asked for a status on the following issues: (1) the David Cannon matter - Mr. Hayden stated that there had not been adequate time for him and Ms. Hazelwood to meet on that matter, and it would be presented to the Commissioners at a later meeting; (2) the Peter Skidmore matter - Mr. Hayden said that this matter would be taken up on today's Agenda in the afternoon Hearing Panel; and (3) the Tripp vs. Haley matter – Mr. Hayden stated that the parties were still negotiating. Chairman Florence reminded everyone that a motion had been made and seconded, and asked for further discussion. There being none, the motion carried with no opposition to approve the Open and Executive Session Minutes from the January 16, 2013 Commission meeting.

OFFICE OPERATIONS

Budget 2012/2013

Mr. Hayden presented for information only the budget for the fiscal year July 1, 2012 to March 19, 2013, noting nothing different than what is normally presented. Discussion ensued concerning budget balance, legislation proposed which would increase appropriated funds but reduce the authorization for the earmarked funds, the proposed Public Integrity Unit, League of Women Voters supporting ethics reform, the ten percent increase, and lobbying fees.

Compliance Reports

Mr. Hayden presented for information only the Compliance reports for January and February, 2013. Mr. Hayden gave a brief explanation to newly-appointed Commissioner Jim Warren of monies received from past investigations. Mr. Burnett asked for clarification on the proposed \$200 increase in registration fees for lobbyists and lobbyist's principals. Mr. Hayden responded.

APPEALS

Mr. Hayden asked to take up the Appeals and 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.

Grant Duffield

Chairman Florence presented a written submission from Mr. Duffield and his request to speak before the Commission. Mr. Duffield was briefed on the Commission's policy of no additional testimony or statements at today's meeting. Mr. Hayden then directed everyone to review Mr. Duffield's handout material and documentation found in the Commission meeting book. After review and discussion, Mr. Burnett made a motion, seconded by Mrs. Tanner, to accept staff recommendation that the appeal be denied, but reduce the penalty to the \$200 which has already been paid. Chairman Florence asked for further discussion. There being none, the motion carried with no opposition.

Constance Caractor Flemming

Documentation was reviewed. Discussion ensued as to clarifying which CDs Ms. Flemming was required to file. Mr. Burnett made a motion, seconded by Vice Chair Brohl, to accept staff recommendation that the appeal be denied, and a late filing payment of \$100 be paid. Chairman Florence asked for further discussion. There being none, the motion carried with no opposition.

Clarence Hughes

Documentation was reviewed. Discussion ensued as to clarifying if there were any previously filed problems. Staff responded. Further discussion ensued as to clarifying the \$300 CD penalty payment which was returned and a replacement penalty of \$200 for two SEIs. Staff responded. Vice Chair Brohl made a motion, seconded by Mr. Burnett, to accept staff recommendation that the appeal be denied, and a late filing payment of \$200 be paid. Chairman Florence asked for further discussion. There being none, the motion carried with no opposition.

John Warner

Mr. Warren advised the Commission that his law firm had represented Mr. Warner previously, and he would have to recuse himself from hearing this matter.

Mr. Hayden and Chairman Florence asked that the records reflect that Mr. Manley was now present at the meeting.

Documentation was reviewed. Mr. Burnett made a motion, seconded by Mr. Manley, to accept staff recommendation that the appeal be denied. Chairman Florence asked for any discussion. There being none, the motion carried with no opposition.

DISCUSSION

Legislation

Mr. Hayden presented to the Commission 20 bills in the House and Senate and stated that copies would be available upon request. Mr. Manley made a motion that Dr. Fitzgerald should read them and then present a summary to the Commission. There was laughing agreement, but no second.

Mr. Hayden then presented to the Commission S.405 which will take away Administrative Law Judges (The Canons or Rule 502) from the Ethics Commission and put it under the jurisdiction of the Judicial Department. There was no discussion.

Mr. Hayden then presented the following moving legislation for information only:

S.2 will fix how candidates get on the ballot (file online on the State Ethics Commission website, and the party/election official will be responsible for confirming their filing of the SEI).

S.338 increases the lobbying fees to \$200 and fixes the definition of committee to come within the court's ruling.

H.3772 reconstitutes the Ethics Commission as formed to have 2 members appointed by the Senate, 2 members appointed by the House, and 4 members appointed by the Governor (one of these being appointed as Chair), and will take effect upon signing by the Governor. This bill also sets up the Public Integrity Unit as requested by the Attorney General.

Discussions ensued as to (1) why an 8-member Ethics Commission vs. the current 9-member Commission; (2) the solution of a tie-breaker; and (3) options for the Ethics Commission's role in certifying candidates for the ballot. Staff responded they were working on these.

Other Business

Chairman Florence presented to the Commission the matter of Abebe v. Haley, et al, an inmate, who has brought a law suit naming the Commissioners in his lawsuit. Mr. Hayden advised the Commission that nothing has been served yet and gave a brief history of the matter.

Commissioner Appointment Update

Chairman Florence asked for an update on any new appointments. Mr. Hayden stated that the Governor has made two new appointments for the Ethics Commission: James "Jim" I. Warren, III, and Twana Burris-Alcide. Mr. Warren was participating at the Commission meeting today. Mrs. Burris-Alcide has not yet completed the confirmation for her current and/or reappointment term.

Mr. Burnett asked about his district's status. Mr. Hayden responded with the various options. Mr. Hayden advised the Commission that Mrs. Tanner's term will end in June, 2013. Mrs. Tanner gave a brief statement. Dr. Fitzgerald asked about any legal problems if all the Commissioners were serving past their two appointments. Staff responded there would be no problems.

Chairman Florence asked for any further discussions, there being none, he requested, and with unanimous consent, everyone took a 5-minute break.

EXECUTIVE SESSION

Chairman Florence asked for a motion to go into Executive Session. A motion was made by Vice Chair Brohl, seconded by Mr. Warren, to go into Executive Session. The motion carried.

RETURN FROM EXECUTIVE SESSION

Upon return from Executive Session, a motion was made by Mr. Manley, seconded by Vice Chair Brohl, to adopt and ratify actions taken in Executive Session. The motion carried.

ADJOURNMENT

A motion was made, with unanimous consent, to adjourn. The motion carried.

Respectfully submitted,

Karen A. Wiggins
Administrative Specialist