

State of South Carolina State Ethics Commission

COMMISSIONERS

JAMES I. WARREN, III, 4th DISTRICT
CHAIR
SHERRI A. LYDON, MEMBER AT LARGE,
VICE CHAIR
THOMAS M. GALARDI, 2nd DISTRICT
FRANCIS E. GRIMBALL, 1st DISTRICT



COMMISSIONERS

SANDY TEMPLETON, 3rd DISTRICT
TWANA BURRIS-ALCIDE, 5th DISTRICT
REGINA HOLLINS LEWIS, 6th DISTRICT
JULIE J. MOOSE, 7th DISTRICT
BRIAN M. BARNWELL, MEMBER AT LARGE

5000 THURMOND MALL, SUITE 250
COLUMBIA, S.C. 29201

STEVEN W. HAMM
INTERIM EXECUTIVE DIRECTOR

MINUTES COMMISSION MEETING OPEN SESSION

January 18, 2017

The meeting was called to order by Chairman James I. Warren, III, at 9:30 a.m. Other members present were Francis E. Grimball, Julie J. Moose, Sandy Templeton, Thomas M. Galardi, Regina Hollins Lewis, and Brian M. Barnwell. Absent were Vice Chair Sherri A. Lydon and Twana Burris-Alcide.

The news media was duly notified.

Staff present: Ami R. Franklin, James T. Bagnall, Michael R. Burchstead, Kristin S. Nabors, Ryanne G. Caldwell, Frank Schumpert, Kevin Hinson, and Karen A. Wiggins.

Others present: Tara Cantey and Shannon Polvi, Esquire.

Chairman Warren welcomed everyone and noted that there was an Amended Open Session Agenda in the yellow folders.

MINUTES

Chairman Warren called for approval of the Minutes. A motion was made by Mr. Grimball, seconded by Mrs. Moose, to accept the Minutes as approved. Chairman Warren asked for any discussion or opposition. There being none, the motion carried with no opposition to approve the Open Session Minutes and the Executive Session Minutes from the November 16, 2017, December 30, 2016, and January 9, 2017 Commission meetings. Absent were Vice Chair Sherri A. Lydon and Twana Burris-Alcide.

OFFICE OPERATIONS

Budget 2016/2017

Chairman Warren called for the Office Operations reports. Interim Director Ami Franklin directed everyone to their yellow folder and presented the Budget reports for the Fiscal Year 2017. Discussion ensued concerning the salary increase for the new Executive Director effective July 1, and a request for an increase in the lobbying registration fees. The Budget report was accepted as presented.

Compliance Reports

Mrs. Franklin directed everyone to their yellow folder and presented the Compliance reports for November and December, 2016. Discussion ensued concerning the proposed budget effective July 1, adding new staff positions, and a status on the plans for the Commission's new offices. The Compliance reports were accepted as presented.

ADVISORY OPINIONS

Duke Energy Carolinas, LLC

Chairman Warren called this matter. Mr. Burchstead directed everyone to their yellow folders for a copy of his draft opinion in this matter concerning Duke Energy's request for clarification on their request to lobby only one specific government body. Discussion ensued concerning the intent and interpretation of Sections 2-17-90, 2-17-10, and 2-17-20, and concerns to examine all restrictions in the statute to avoid any misuse of this requested advisory opinion. Chairman Warren asked for further discussion. There being none, Mr. Grimbball made a motion, seconded by Mrs. Lewis, to table any action in this matter and take this matter up in March when Mr. Burchstead can present a redrafted advisory opinion to include the concerns of the Commission. The motion carried with a 7 - 0 vote. Absent were Vice Chair Sherri A. Lydon and Twana Burris-Alcide.

Department of Insurance request related to public official owning a bail bonding company

Chairman Warren called this matter. Mr. Burchstead directed everyone to their yellow folders for material in this matter concerning Section 8-13-740(5) which impacts a municipal public official who owns a bail bonding business that conducts business in the court system for that municipality. Discussion ensued concerning someone who owns a bail bonding business appearing in court. Further discussion and clarification ensued concerning that just filing a single document in court is "appearing"—whether by the owner or an employee; there is an adverse opinion from the Attorney General's office on this matter; the reason for the law is to prevent the public official from being able to exert undue influence on the person for whom he is appearing, and the result that someone might have to give up their business or resign from that public office on the outcome of this opinion. Chairman Warren asked for further discussion. There being none, Mr. Grimbball made a motion, seconded by Mr. Templeton, to table any action in this matter and take this matter up in March when Mr. Burchstead can present a draft advisory opinion to include the concerns of the Commission. The motion carried with a 7 - 0 vote. Absent were Vice Chair Sherri A. Lydon and Twana Burris-Alcide.

APPEALS

Richard Byrd

Chairman Warren called this matter, noting that Mr. Byrd in his appeal was diligent in trying to address the late filing, stated that there were communication problems, then penalties began to accrue,

and he is asking for a reduction in the fine. Chairman Warren asked Kristin Nabors for staff's recommendation on a waiver or reduction in this matter. Mrs. Nabors gave a history of events, noting that based on extenuating circumstances, there was not enough to waive the fine. Discussion ensued on the timeline of communication, filing the reports, the payment process, and Mr. Byrd now being in compliance. Further discussion ensued for reducing the fine. Chairman Warren asked for further discussion or clarification. There being none, Mrs. Lewis made a motion, seconded by Mr. Grimbball, to deny the Motion to Appeal, but reduce the fine to \$500.00, provided the fine is paid within 60 days of the issuance of the order on this appeal, and if the \$500.00 fine is not paid within the 60-day period, then the fine would stay at \$2,600.00. The motion carried with a 7 – 0 vote. Absent were Vice Chair Sherri A. Lydon and Twana Burris-Alcide.

Robert A. McFadden, Sr.

Chairman Warren called this matter. Mrs. Nabors gave a history of events, noting that with previous non-compliance and past reductions, there were not enough circumstances to waive the fine. Discussion ensued. Chairman Warren asked for further discussion or clarification. There being none, Mr. Grimbball made a motion, seconded by Mrs. Lewis, to deny the Motion to Appeal. The motion carried with a 7 – 0 vote. Absent were Vice Chair Sherri A. Lydon and Twana Burris-Alcide.

MOTION TO DISMISS

C2016-035 State Ethics Commission vs. Tara Cantey

Chairman Warren called this matter, directing everyone to their yellow folders for additional material in this matter. Chairman Warren recognized Respondent and her attorney, Shannon Polvi. Attorney Polvi gave an opening statement on this probable cause matter against the Respondent for using her position for financial gain, and gave a history of events on the stipend that was pre-approved before it was issued. Mr. Grimbball asked Attorney Polvi if this Motion to Dismiss, along with her filing of the exhibits, was to convert this matter at this time for a motion for Summary Judgment. Discussion and clarification ensued concerning the judicial process for handling this matter with all the facts, all the evidence, testimonies, witnesses, and action that the Commission has taken to find probable cause to go forward with hearing this matter. Mr. Burchstead requested that all of this discussion and the various issues being brought up at this time deem that there are a lot of testimonies that need to be heard. Further discussion ensued. Attorney Polvi then closed by saying the issues had all been covered, and asked the Commission for a dismissal prior to proceeding with evidence to a hearing. Chairman Warren thanked Respondent and Attorney Polvi for coming, and stated that this matter would be taken under advisement, and the Commission would get back to them with their decision.

NEW BUSINESS

Legislation

Mr. Burchstead presented this matter, noting legislation being taken up at the General Assembly which affects the Commission.

Appointment Process

Mr. Burchstead presented this matter noting his visit with Governor McMaster's staff concerning the appointments of the Commission's eight new commissioners starting April 1, 2017. Mr. Burchstead stated that he will be having a follow up meeting to support the efforts to have all eight appointments in place at that time. Chairman Warren asked the commissioners present to indicate if they had an interest in being appointed to the new commission. Discussion and a decision ensued to do it privately. All agreed.

New Personnel

Mrs. Franklin introduced Kevin Hinson, the Commission's newest investigator, and gave a brief history of his past experience. Investigator Hinson received a welcome from the commissioners, and thanked everyone for the opportunity to be a part of the Commission's team.

POINT OF ORDER

Mr. Burchstead asked at this time to present an update on Henry McMaster's 2010 Governor's race. There was no opposition. Mr. Burchstead stated that he received communication and material from Governor McMaster's attorney, Butch Bowers, regarding the Commission's consent order in this matter, and noted that Governor McMaster has raised the necessary money to pay back the donors as agreed in the consent order. Discussion and clarification ensued concerning the money raised, money deposited in a new campaign account, auditing the names of the donors to make sure they did not max out, and whether to amend the old campaign disclosure reports or file new ones. Further discussion ensued concerning staff working with Attorney Bowers on how to meet the agreements in the consent order. Chairman Warren stated that more time was needed to decide how to close this matter. It was agreed that staff and Attorney Bowers would get together and then bring back to the Commission their decisions without adding any more burdens in this matter.

POINT OF ORDER

Mr. Galardi requested at this time to ask Mrs. Franklin about the Hearing Panel schedule for the February and March meetings. There was no opposition. Mrs. Franklin confirmed that February 15 was a Hearing Panel meeting and that March 15 was a full Commission meeting. Discussion ensued as to which commissioners would not be able to participate in those meetings. Mrs. Franklin also reminded the commissioners that at this time, there were no more hearings scheduled until after the new commissioners came on board after April 1.

Chairman Warren asked to take a break at this time. All agreed.

EXECUTIVE SESSION

Chairman Warren asked for a motion to go into Executive Session for the purpose of hearing probable cause matters, advisory opinions, and an employment issue. A motion was made by Mrs. Moose, seconded by Mrs. Lewis, to go into Executive Session. There being no discussion or opposition, the motion carried with a 7 – 0 vote. Absent were Vice Chair Sherri A. Lydon and Twana Burris-Alcide.

RETURN FROM EXECUTIVE SESSION

Upon return from Executive Session, a motion was made by Mr. Grimball, seconded by Mrs. Lewis, to adopt and ratify actions taken in Executive Session. Chairman Warren reminded everyone that if they recused themselves on a matter in Executive Session, they were still recused on that matter with this vote. The motion carried with a 6 - 0 vote. Absent were Vice Chair Sherri A. Lydon, Twana Burris-Alcide, and Julie Moose.

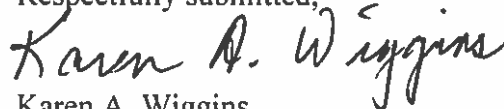
POINT OF ORDER

After return from Executive Session, Chairman Warren noted for the record that the Commission took no action on the position of a new permanent Interim Executive Director. Chairman Warren stated that Costa M. Pleicones had been offered the position, but he respectfully declined, and that discussion ensued to further explore the Commission's options. It was agreed that this matter would be taken up at a later date.

ADJOURNMENT

Chairman Warren asked for any further discussion. There being no further business, Mr. Grimball made a motion, seconded by Mrs. Lewis, to adjourn at 12:55 a.m. The motion carried with a 6 - 0 vote. Absent were Vice Chair Sherri A. Lydon, Twana Burris-Alcide, and Julie Moose.

Respectfully submitted,



Karen A. Wiggins
Administrative Specialist