

*State of South Carolina*  
*State Ethics Commission*

BRIAN M. BARNWELL, CHAIR  
VICTOR K. LI, VICE CHAIR  
DONALD GIST  
DON JACKSON



BRANDOLYN THOMAS PINKSTON  
RICK REAMES III  
CHILDS CANTEY THRASHER  
ASHLEIGH R. WILSON

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

STEVEN W. HAMM  
INTERIM EXECUTIVE DIRECTOR

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

**July 18, 2017**

The meeting was called to order by Chairman Brian M. Barnwell at 9:35 a.m. Members present were Donald Gist, Donald H. Jackson, Victor K. Li, James F. "Rick" Reames, III, Ashleigh R. Wilson, and Brandolyn T. Pinkston. Mrs. Childs Cantey Thrasher arrived at 9:36 a.m.

The news media was duly and timely notified.

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

Others present: Gary Cannon, Keith Roberts, and David DuRant.

**MINUTES**

Chairman Barnwell called for approval of the Minutes. A motion was made by Mrs. Thrasher, seconded by Ms. Wilson, to accept the Minutes as approved. Chairman Barnwell 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 June 14, 2017 Commission Training meeting. Mrs. Pinkston did not vote because she was absent on July 18, 2017, and requested that the records show that her e-mail address was incorrect for notification of the meeting. Interim Director Steve Hamm stated that the e-mail error has been corrected. Mr. Hamm stated that on June 23, 2017, Mrs. Pinkston did attend a make-up training session with staff at the Commission's offices. Chairman Barnwell asked if Mrs. Thrasher wanted to

amend her motion. Mrs. Thrasher amended her motion, seconded by Ms. Wilson, to approve the Minutes as amended. The amended motion was carried unanimously.

## **OFFICE OPERATIONS**

### **Budget 2017-2018 and Compliance Reports**

Chairman Barnwell called for the Office Operation reports. Mr. Hamm presented the budget reports for the Fiscal Year 2017 and new Fiscal Year 2018, noting that the Commission relies heavily on carry forward funds. Mr. Hamm also gave a brief overview of the proposed budget that must be submitted September 15 for the 2018-2019 Fiscal Year, directed everyone to their yellow folder for the Compliance report, and presented an update on current expenditures, approval of new personnel, and a status of the Commission's move to a new office location.

## **POINT OF ORDER**

Mr. Hamm asked at this time to change the order of the Agenda and discuss Kevin Bryant's inquiries. There was no opposition. Mr. Hamm gave an overview of a meeting staff concerning Lt. Governor Bryant's campaign for re-election which begins the day after the Primary/Runoff in 2018. Discussion ensued concerning the transfer of funds, disbursement of any money in the campaign account if not elected or running for Governor; clarification of the new law and definition of candidate as to appointed, elected, and nominated; and no current request for a proposed formal opinion in this matter.

## **POINT OF ORDER**

Mr. Hamm asked at this time to change the order of the Agenda to take up the Workers' Compensation Commission Advisory Opinion since representatives were present. There was no opposition.

## **ADVISORY OPINIONS**

### **AO2018- Workers' Compensation Commission Request Regarding Service on Non-Profit Organizations in Official Capacity**

Mr. Hamm introduced Gary Cannon, Keith Roberts, and David DuRant from the Commission. Mr. Burchstead gave an overview of the Commission's current formal opinions on "business with which associated" and "individual with whom associated." Discussion ensued concerning jurisdiction of the Ethics Reform Act and Code of Judicial Conduct for the Workers Compensation Commission; the definitions found in commissions and organizations' by-laws; situations for recusals for conflicts of interests; and compensation paid to board members. Chairman Barnwell asked for further discussion. Mr. Cannon thanked the Commission for their time in this matter, and noted that this request came as a result of the recent Loftis decision issued by the Ethics Commission. Further discussion ensued concerning the timeframe for a response concerning this request for a formal opinion, and Mr. Burchstead stated that there was

currently an informal staff opinion. Chairman Barnwell asked for further discussion. There being none, Mr. Gist made a motion, seconded by Vice Chair Li, to table this matter so the Commission could further consider Mr. Burchstead's draft. Chairman Barnwell asked for further discussion or opposition. Discussion ensued that the Commission members would receive a copy of the revised draft before the next Commission meeting. There being no further discussion or opposition, the vote carried with an 8 – 0 vote.

### **POINT OF ORDER**

Mr. Jackson asked at this time for clarification on once he receives the Commission meeting book in the mail, what is the best way to get any questions he had answered—share it with the other commissioners or discuss it with staff. Mr. Hamm responded that all questions should be presented to the Commission and that he wanted to be included and was interested in all of their concerns. Discussion ensued concerning requirements of the new the Freedom of Information Act as to all e-mails between the commissioners and with staff and procedures for following the Flow Chart found in the Commission meeting book. Staff responded that legal questions for advice or confirmation on any Commission matter to Mr. Burchstead or Mr. Hamm are privileged information. Further discussion ensued concerning the decision made in the Loftis matter.

### **ADVISORY OPINIONS – continued**

**AO2018- Town of Blythewood Request Regarding Conflict of Interest in a Zoning Matter**  
Mr. Burchstead called this matter, gave a history of events noting this request was from officials of the Town of Blythewood related to Cobblestone Park. Mr. Burchstead then gave an overview of the statutes on economic interests and the “large class” rule. Discussion ensued concerning the zoning matter and how it affected the subdivision/club—not a specified council member. Vice Chair Li expressed his concern for more information since this was “a large class” exception matter (150 people). Further discussion ensued concerning amount of time given for a zoning hearing. Mr. Hamm gave an overview of the Flow Chart found in each commissioner's meeting book, and Mr. Burchstead noted that this opinion only affects this single subdivision. Chairman Barnwell expressed his concern that “the business with which is associated” is vague, and there should be a statement to add “If the town council member is a director of the board of directors of a club, he now becomes associated with that club for purposes of the Ethics Act.” Mr. Burchstead confirmed that statement. Further discussion ensued concerning the definition of “a member of the club vs. being a director of the club vs. being a council member.” Chairman Barnwell asked for further discussion. There being none, Mrs. Thrasher made a motion, seconded by Mr. Gist, to accept the draft with additional language proposed by Chairman Barnwell. Chairman Barnwell asked for further discussion or opposition. The motion carried with a 7 to 1 vote. Vice Chair Li opposing because there was no finding of a conflict. Mrs. Pinkston wanted to make sure there was no economic benefit for the council member in this matter, that proper notice was given to the residents, and asked if any complaints had been filed. Mr. Burchstead responded.

**POINT OF ORDER**

Mr. Hamm directed everyone to the Flow Chart found in their Commission meeting book, and then gave an overview of the procedures that staff follows when a complaint is received. Discussion ensued among the Commission members concerning the Flow Chart's use for deliberating probable cause matters being considered in Executive Session.

Chairman Barnwell requested a short break at this time. All agreed.

**EXECUTIVE SESSION**

A motion was made by Mr. Gist, seconded by Mrs. Pinkston, to go into Executive Session to deliberate probable cause matters. There being no discussion or opposition, the motion carried with an 8 – 0 vote.

**POINT OF ORDER**

Upon return from Executive Session at 12:27 p.m., Chairman Barnwell called the matter of considering a regular Commission meeting date. Discussion ensued. Chairman Barnwell asked for further discussion. There being none, Vice Chair Li made a motion, seconded by Mr. Gist, to hold the full Commission meetings on the third Thursday of every other month at 9:30 a.m., starting with September 21, 2017. It was agreed that the Commission would hold Hearing Panels as needed every other month between the full Commission meetings starting with August 31, 2107, at 9:30 a.m. Discussion ensued concerning policies for the Commission members to know before the September 21 meeting. Chairman Barnwell asked that this information be circulated to all Commission members. Staff responded. There being no further discussion, the motion carried with an 8 – 0 vote.

**POINT OF ORDER**

Mr. Hamm asked at this time to change the order of the agenda and return to Executive Session to continue with probable cause matters. Chairman Barnwell asked for further discussion or opposition. There being none, Mrs. Thrasher made a motion, seconded by Mr. Gist, to return to Executive Session to continue with probable cause matters. The motion carried with a 7 – 0 vote. Mrs. Pinkston had previously left the meeting at 12:36 p.m.

**RETURN FROM EXECUTIVE SESSION**

Upon return from Executive Session at 2:50 p.m., a motion was made by Mrs. Thrasher, seconded by Mr. Gist, to adopt and ratify all actions taken with regard to probable cause cases 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. Mrs. Pinkston and Mr. Reames had previously left the meeting.

**POINT OF ORDER**

Mr. Hamm asked to take up the matter of producing and mailing the Commission and Hearing Panel meeting books that are mailed each month. Discussion ensued to the cost effectiveness of other methods of preparing and distributing the books for next year's budget. The Commission members were asked to treat their Commission meeting books as "confidential" before bringing them to the Commission meeting. The contents would be shredded by staff after the meeting, and the books would be recycled for use at the next meeting. Chairman Barnwell also reminded the Commission members to turn in their travel vouchers to Mrs. Wiggins.

**ADJOURNMENT**

Chairman Barnwell asked for further discussion. There being no further business, a motion was made by Mr. Jackson, seconded by Vice Chair Li, to adjourn at 2:53 p.m. The motion carried with a 6 – 0 vote. Mrs. Pinkston and Mr. Reames had previously left the meeting.

Respectfully Submitted,

*Karen A. Wiggins*

Karen A. Wiggins  
Court Reporter