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MINUTES OF THE STATE ETHICS COMMISSION MEETING

May 17, 2012

Commission Members Present: Robert F. Scholz, Chair
Julian L. Lapidés
Andrea Leahy-FucHECK
Jacob Yosef Miliman
Paul M. Vettori

Staff Members Present: Michael W. Lord, Executive Director
Jennifer K. Allgair, General Counsel
Deadra W. Daly, Assistant General Counsel
William J. Colquhoun, Staff Counsel
Darlene J. Brocki, Office Manager
Jennifer Whitehead, Legal Assistant
Megan W. Schutz, Legal Assistant
Paul Dickman, Intern

The meeting convened at 9:35 a.m. at the Commission's offices in Annapolis. Paul Dickman, the Intern for the summer, was introduced to the Commission.

ITEM 1: Tentative Agenda

Discussion: The Commission reviewed the tentative agenda.

Decision: The tentative agenda was approved with additions.

ITEM 2: Minutes of the March 15, 2012

Discussion: The draft minutes of the March 15, 2012 meeting were reviewed and discussed.

Decision: The draft minutes were approved with changes noted.

ITEM 3: Financial Disclosure Additions and Deletions

Discussion: Mr. Lord presented a listing of the proposed additions and deletions to the financial disclosure list recommended by State agencies and reviewed by him. The recommendations covered the Executive Department, Department of Health & Mental Hygiene, Department of Natural Resources, Department of Education, Comptroller's Office, Department of Juvenile Services, Maryland Insurance Administration, Department of Agriculture, Department of Housing & Community Development, Department of Transportation, State Highway Administration, University of Baltimore, University of Maryland Baltimore County, University of Maryland-Baltimore, University of Maryland-University College, College of Southern Maryland, Montgomery College, Bowie State University, Howard Community College, Coppin State University, and the Department of General Services. Deletion requests for the Registered Nurse and Nurse Practitioner positions in the Department of Health & Mental Hygiene, the Technical Projects positions in Montgomery College, and the Building Construction Inspector position in the Department of General Services were discussed in detail.

Decision: The Registered Nurse and Nurse Practitioner positions in the Department of Health & Mental Hygiene, the Technical Projects positions in Montgomery College, and the Building Construction Inspector position in the Department of General Services were not deleted from the financial disclosure listing. The Commission approved the remainder of Mr. Lord's recommendations.

ITEM 4: Local Government – Montgomery County (12-0225)

Discussion: Ms. Allgair briefed the Commission on the draft Montgomery County Ethics Law. Robert Cobb, Chief Counsel/Staff Director, spoke on behalf of the Montgomery County Ethics Commission.

Decision: The Commission determined that revisions to current draft ethics laws are required. The Commission staff will send a detailed letter to Mr. Cobb regarding these provisions.

ITEM 5: Local Government – Crisfield (11-0230)

Discussion: Ms. Allgair briefed the Commission on the full exemption request received from the Town of Crisfield. Robin Cockey, Town Attorney; Kimberly Lawson, Councilman; and Percy J. Purnell, Mayor; spoke on behalf of the Town of Crisfield. Several other representatives from the Town were also present.

Decision: The Commission granted a partial exemption permitting the Town of Crisfield not to adopt lobbying provisions. The Town must adopt conflict of interest and financial disclosure provisions.

ITEM 6: Local Government – St. Michaels (12-0004)

Discussion: Ms. Allgair briefed the Commission on the full exemption request received from the Town of St. Michaels. Town Attorney, Charles MacLeod, spoke on behalf of the Town of St. Michaels. A representative from the Town and two citizens from the Town were also present.

Decision: The Commission granted a partial exemption permitting the Town of St. Michaels not to adopt lobbying provisions. The Town must adopt conflict of interest and financial disclosure provisions.

ITEM 7: Local Government – Hancock (11-0548)

Discussion: Ms. Allgair briefed the Commission on the full exemption request received from the Town of Hancock. Dan Murphy, Mayor, and David Smith, Town Manager, spoke on behalf of the Town of Hancock.

The Commission also received a copy of letters from Councilman Dardar to consider regarding the exemption request.

Decision: The Commission granted a full exemption for the Town of Hancock.

ITEM 8: Local Government – Town of Millington (11-0561)

Discussion: Ms. Allgair briefed the Commission on the full exemption request received from the Town of Millington.

Decision: The Commission granted a full exemption for the Town of Millington.

ITEM 9: Local Government – Town of Sykesville (11-0491)

Discussion: Ms. Allgair briefed the Commission on the partial exemption request received from the Town of Sykesville.

Decision: The Commission granted a partial exemption permitting the Town of Sykesville not to adopt lobbying provisions. The Town must adopt conflict of interest and financial disclosure provisions.

ITEM 10: Local Government – City of Taneytown

Discussion: Ms. Allgair briefed the Commission on the full or partial exemption request received from the City of Taneytown.

Decision: The Commission granted a partial exemption permitting the City of Taneytown not to adopt lobbying provisions. The City must adopt conflict of interest and financial disclosure provisions.

Meeting was closed at 11:30 a.m. to consider confidential advice matters.

ITEM 11: Advisory Opinion Request – REQ-12-01r

Discussion: Ms. Allgair briefed the Commission on an advisory opinion request regarding an exception to the participation restrictions of §15-501 of the Public Ethics Law to allow the requestor who is employed with the State Highway Administration (SHA) to carry out his State duties in matters involving an SHA contractor that employs his qualified relative. The Requestor and a representative from SHA were present. Confidentiality was not waived.

Decision: The Commission will grant the exception. Commission staff will draft an advisory opinion for Commission review and approval.

ITEM 12: Executive Director's Report - Training Opportunities

Discussion: Mr. Lord briefed the Commission on the trainings conducted by the staff regarding conflicts of interest.

ITEM 13: Executive Director's Report – Status of Legislation

Discussion: Mr. Lord briefed the Commission on the status of SB 920 which passed but did not include the provisions regarding the Ethics Commission and financial disclosure requirements. A work group will be created to discuss the financial disclosure requirements of the Public Ethics Law, public access to disclosure statements and the impact of disclosure requirements on local governments.

Discussion: This matter will be discussed further at the June meeting.

ITEM 14: Executive Director's Report – Local Government Conference

Discussion: Mr. Lord briefed the Commission on the possibility of having a Local Government Conference.

ITEM 15: Executive Director's Report – Legislative Auditors

Discussion: Mr. Lord briefed the Commission on communications with the Legislative Auditors concerning confidential information.

ITEM 16: Executive Director's Report – Records Retention Policy

Discussion: Mr. Lord briefed the Commission on the Commission's records retention policy and proposed changes.

Decision: A draft amended retention policy will be discussed at the next meeting.

ITEM 17: C-29-09 (Ms. Daly did not participate in this matter.)

Discussion: Mr. Colquhoun briefed the Commission on the status of this matter.

Decision: This matter will be further reviewed at a later meeting.

Meeting was reopened at 12:25 p.m. for consideration of additional local government matters.

ITEM 18: Local Government – Preliminary Consideration of Exemption Requests

Discussion: Ms. Allgair briefed the Commission on exemption requests received from the Town of Fairmont Heights, Town of Hebron, Town of New Windsor and the Town of Goldsboro.

Decision: The Commission staff will begin the exemption process and the Commission will consider the exemptions at a later date.

ITEM 19: Local Government – Draft and Adopted Policies and Regulations – Boards of Education

Discussion: Ms. Daly briefed the Commission on the adopted ethics policies and regulations received from the Calvert County Board of Education, Dorchester County Board of Education, Harford County Board of Education, Worcester County Board of Education and Howard County Board of Education. The Wicomico County Board of Education asked whether the Board could exemption board members appointed before October 1, 2010 from financial disclosure requirements.

Decision: The Commission rejected the Howard County Board of Education ethics policy and approved all other drafts and adopted ethics policies and regulations presented. With respect to Wicomico County, the

Commission advised that exempting any board members from the financial disclosure requirement would result in a policy less stringent than the Public Ethics law.

ITEM 20: Local Government – Draft Ethics Laws – Municipalities

Discussion: Ms. Daly and Ms. Allgair briefed the Commission on the proposed and adopted ethics laws, policies and regulations received from the City of Frostburg, City of Cumberland, City of Fruitland, City of Salisbury, Town of Perryville, City of New Carrollton, Town of Walkersville, City of Takoma Park, City of Mt. Rainer, Town of Berlin, City of College Park, and Town of Emmitsburg.

Decision: The Commission approved the proposed and adopted ethics laws, policies and regulations.

ITEM 21: Local Government – Draft Ethics Laws – Counties

Discussion: Ms. Allgair briefed the Commission on the proposed ethics laws, policies and regulations received from Prince George's County, Calvert County and Talbot County.

Decision: The Commission approved the proposed ethics laws, policies and regulations.

Meeting was closed at 12:35 p.m. to consider confidential advice and enforcement matters.

ITEM 22: Informal Matter – Secondary Employment- Department of Agriculture (12-0108)

Discussion: Ms. Daly briefed the Commission on an advice request regarding an employee in the Department of Agriculture having a financial interest, and secondary employment with, a business that provides services to farming associations in and outside Maryland.

Decision: The Commission determined that the Public Ethics Law prohibits the employee from having duties, in his outside employment, with an entity that employs a lobbyist who lobbies on agriculture matters in Maryland. The Public Ethics Law does not prohibit the employee's other activities.

ITEM 23: Informal Matter – Secondary Employment – Department of Human Resources (12-0199)

Discussion: Ms. Allgair briefed the Commission on a secondary employment request regarding an employee in the Department of Human Resources wanting to be a substitute teacher with the county board of education.

Decision: The Commission granted an exception to allow the secondary employment.

ITEM 24: Informal Matter – Post Employment – Motor Vehicle Administration (12-0071)

Discussion: Ms. Daly briefed the Commission on a post employment request regarding a former employee in the Motor Vehicle Administration wanting to be an instructor in a driver improvement program and providing volunteer services on a matter in which the employee participated in the State position.

Decision: The Commission advised that the proposed activity did not violate the post employment provisions of the Public Ethics Law.

ITEM 25: Informal Matter – Post Employment – Maryland Environmental Services (12-0072)

Discussion: Mr. Lord briefed the Commission on a secondary employment request regarding an employee in the Maryland Environmental Services wanting to become an application developer for a private company on a State contract.

Decision: The Commission advised that: 1) the employee's work as a State employee on a web application framework and database system did not preclude him from working on future tasks/projects involving that system for his new employer; and 2) his previous work as a State employee on a task was not significant participation and he was therefore not precluded from working on that specific task for his new employer.

ITEM 26: Informal Matter – Procurement Exemption Scenarios (12-0185)

Discussion: Ms. Allgair briefed the Commission on some procurement exemption scenarios regarding private-sector technology that could be used to improve State processes or services and asked whether that participation would prohibit companies from bidding on those projects in the future and whether a State agency can accept services from any interested group for a trial period without those groups being precluded from submitting a bid on any subsequent procurement.

Decision: The Commission determined these activities are not allowable under § 15-508 of the Public Ethics Law.

ITEM 27: Informal Matters – 07-0199 and 12-0050

Discussion: Mr. Lord briefed the Commission on the status of these matters.

(Mr. Lord, Mr. Colquhoun, Ms. Whitehead and Ms. Schutz participated in the briefings but did not participate in the decisions regarding items 28 through 42.)

ITEM 28: A-12-12

Discussion: Mr. Colquhoun briefed the Commission on this matter.

ITEM 29: A-14-12

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: This matter was removed from the docket.

ITEM 30: A-16-12

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: This matter will remain on the preliminary consideration docket.

ITEM 31: A-17-12

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: This matter will be closed.

ITEM 32: A-18-12

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: This matter will remain on the preliminary consideration docket.

ITEM 33: C-19-02 (Mr. Lapides did not participate in this matter.)

Discussion: Mr. Colquhoun briefed the Commission on the status matter.

ITEM 34: A-19-12

Discussion: Mr. Colquhoun briefed the Commission on these matters.

Decision: The Commission will accept the late filing agreements.

ITEM 35: A-15-12

Discussion: Mr. Colquhoun briefed the Commission on these matters.

Decision: Letters will be sent in these matters.

ITEM 36: A-20-12

Discussion: Mr. Colquhoun briefed the Commission on these matters.

Decision: A Complaint will be issued in this matter. (C-11-12)

ITEM 37: C-44-10

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: The Commission accepted a cure and the matter will be closed.

ITEM 38: C-16-11

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: The Commission accepted a cure and the matter will be closed.

ITEM 39: C-8-12

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: The Commission accepted a cure and the matter will be closed.

ITEM 40: C-9-12

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: The Commission accepted a cure and the matter will be closed.

ITEM 41: C-10-12

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: The Commission accepted a cure and the matter will be closed.

ITEM 42: A-21-12

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: This matter will be closed.

ITEM 43: Informal Matter – Gift Law Discussion

Discussion: Mr. Lord sought Commission's advice on what constitutes acceptable "scheduled entertainment" in conjunction with participation on a panel or speaking engagement.

Decision: A letter will be drafted reflecting the Commission's opinion and the Commission's views will be reflected in a forthcoming gift memo.

The meeting was adjourned at 2:50 p.m.