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MINUTES OF THE STATE ETHICS COMMISSION MEETING

February 16, 2017

Commission Members Present: Janet E. McHugh, Chair
James R. Benjamin, Jr.
Kim L. Coble
Jacob Yosef Miliman
Craig D. Roswell

Staff Members Present: Michael W. Lord, Executive Director
Jennifer K. Allgair, General Counsel
William J. Colquhoun, Staff Counsel
Katherine P. Thompson, Assistant General Counsel
Darlene J. Brocki, Office Manager
Jennifer D. Whitehead, Paralegal
Maura M. Pizzi, Paralegal
Amanda L. Iavarone, Legal Assistant
Dawn Stern, Intern

The meeting convened at 9:35 a.m. at the Commission's offices in Annapolis. Dawn Stern was introduced as the new intern. Those listed as present participated in all portions of the meeting unless otherwise noted. If other individuals participated in aspects of the meeting, they will be identified in the specific line item where their participation occurred.

ITEM 1: Tentative Agenda

Discussion: The Commission reviewed the tentative agenda.

Decision: The tentative agenda was approved with changes.

ITEM 2: Minutes of the December 15, 2016 Meeting

Discussion: The draft minutes of the December 15, 2016 meeting were reviewed and discussed.

Decision: The draft minutes were approved.

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 Budget & Management, Department of General Services, Department of Commerce, Treasurer's Office, Department of Housing & Community Development, Department of Labor, Licensing & Regulation, Comptroller's Office, Department of Human Resources, Department of Health & Mental Hygiene, Prince George's County Health Department, Maryland Health Benefits Exchange, Department of Natural Resources, Department of Education, Department of Juvenile Services, Maryland Higher Education Commission, State Board of Elections, Motor Vehicle Administration, State Highway Administration, University of Maryland-Baltimore, Technology Development Corporation, University of Maryland University College, Morgan State University, Montgomery College and the Maryland Transit Administration.

Decision: The Commission approved Mr. Lord's recommendations.

ITEM 4: Financial Disclosure Exemption Request

Discussion: Mr. Lord briefed the Commission on the Task Force to Study the Restraint, Searches, and Needs of Children in the Juvenile Justice System, Governor's Commission on African Affairs, Governor's Commission on Middle Eastern Affairs, Advisory Council on the Impact of Regulations on Small Businesses within the Department of Business and Economic Development and the Department of Labor, Licensing and Regulation in Collaboration with the Consumer Protection Division Stakeholder Workgroups for Study of Door-to-Door Sales of Home Improvement Services requests for exemption from the financial disclosure requirement.

Decision: The Commission approved the exemptions for the Task Force to Study the Restraint, Searches, and Needs of Children in the Juvenile Justice System, Governor's Commission on African Affairs, Governor's Commission on Middle Eastern Affairs, and the Department of Labor, Licensing and Regulation in Collaboration with the Consumer Protection Division Stakeholder Workgroups for Study of Door-to-Door Sales of Home Improvement Services. The Commission did not approve the exemption for the Advisory Council on the Impact of Regulations on Small Businesses within the Department of Business and Economic Development.

The Commission voted unanimously to close the meeting at 9:50 a.m. pursuant to §3-305(b)(13) of the Open Meetings Act to consider confidential enforcement matters per §5-407 of the Public Ethics Law and pursuant to §3-305(b)(13) of the Open Meetings Act to consider confidential advice matters per §5-303 of the Public Ethics Law.

ITEM 5: A-36-16

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

Decision: A complaint will not be issued in this matter.

ITEM 6: A-2-17

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

Decision: A complaint will not be issued in this matter.

ITEM 7: B-6-16

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

Decision: A complaint will not be issued and this matter will be closed with a letter.

ITEM 8: C-100-16 (Mr. Miliman did not participate in this matter.)

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

Decision: The complaint was cured by the Respondent's actions.

ITEM 9: A-3-17

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

Decision: The matters are closed.

ITEM 10: A-4-17

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

Decision: A complaint will be issued in this matter. (C-2-17)

ITEM 11: C-18-15

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

Decision: The Commission accepted the late filing as a cure.

ITEM 12: C-60-15

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

Decision: The Commission accepted the late filing as a cure.

ITEM 13: C-65-16

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

Decision: The Commission accepted the late filing as a cure.

ITEM 14: C-80-16

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

Decision: The Commission accepted the late filing as a cure.

ITEM 15: C-105-16

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

Decision: The Commission accepted the late filing as a cure.

(Mr. Lord, Mr. Colquhoun, Ms. Pizzi, Ms. Whitehead and Ms. Stern participated in the briefings but did not participate in the decisions regarding Items 5 through 15.)

ITEM 16: Informal Matter – Department of Human Resources (16-0550)

Discussion: Ms. Allgair briefed the Commission on a secondary employment request regarding an employee in the Department of Human Resources wanting to continue working as customer service associate at a retail department store.

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

ITEM 17: Informal Matter – Department of Human Resources (17-0010)

Discussion: Ms. Allgair briefed the Commission on a secondary employment request regarding an employee in the Department of Human Resources wanting to continue working as a cashier at a local convenience store.

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

ITEM 18: Informal Matter – Department of Human Resources (17-0054)

Discussion: Ms. Allgair briefed the Commission on a secondary employment request regarding an employee in the Department of Human Resources wanting to continue working as a real estate broker.

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

ITEM 19: Informal Matter – Department of Health & Mental Hygiene (16-0535)

Discussion: Ms. Allgair briefed the Commission on a secondary employment and financial interest request regarding an employee in the Department of Health & Mental Hygiene wanting to continue working at and having an interest in a behavioral health facility and an urgent care facility.

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

ITEM 20: Informal Matter – Department of Human Resources (17-0036)

Discussion: Ms. Thompson briefed the Commission on a secondary employment request regarding an employee in the Department of Human Resources wanting to continue working as a facilitator with a sexual assault/spouse abuse resource center.

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

ITEM 21: Informal Matter – Department of Human Resources (17-0009)

Discussion: Ms. Thompson briefed the Commission on a secondary employment request regarding an employee in the Department of Human Resources wanting to continue working as a parking lot attendant.

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

ITEM 22: Informal Matter – Department of Housing & Community Development (17- 0031)

Discussion: Ms. Allgair briefed the Commission on a secondary employment and financial interest request regarding an employee in the Department of Housing & Community Development wanting to continue serving as a board member and holding an interest in a software development company.

Decision: The Commission approved the secondary employment and financial interest.

ITEM 23: Informal Matter – Department of the Environment (16-0545)

Discussion: Ms. Thompson briefed the Commission on a secondary employment request regarding an employee in the Department of the Environment wanting to continue working as a hazmat technician assistant with a private organization.

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

ITEM 24: Informal Matter – University of Maryland, Baltimore (16-0539)

Discussion: Ms. Thompson briefed the Commission on a secondary employment request regarding an employee in the University of Maryland, Baltimore wanting to continue working as a traveling faculty member for a national council of university research administrators.

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

ITEM 25: Informal Matter – Maryland State Police (17-0041)

Discussion: Ms. Thompson briefed the Commission on a secondary employment request regarding an employee in the Maryland State Police wanting to continue working as a helicopter pilot providing private flights.

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

ITEM 26: Informal Matter – Department of Transportation (17-0014)

Discussion: Ms. Allgair briefed the Commission on a financial interest and secondary employment request regarding an employee in the Department of Transportation wanting to continue employment and financial interest in an environmental consulting firm that holds minority business, disadvantaged business and small business certifications.

Decision: The Commission directed staff to meet with the employee to discuss non-participation or non-certification options for future Commission consideration. The Commission did not grant an exception to allow the secondary employment and financial interest based on the facts at this time. The Commission will review the matter again in the future.

ITEM 27: Informal Matter – Maryland State Arts Council (17-0046)

Discussion: Ms. Allgair briefed the Commission on a request for guidance regarding agency fundraising for the Maryland State Arts Council.

Decision: The Commission determined the agency fundraising is allowable with certain restrictions.

ITEM 28: Informal Matter – Charitable Foundation (17-0047)

Discussion: Ms. Allgair briefed the Commission on a request from a State official's spouse who wants to start a charitable foundation to promote art therapy for children in hospitals.

Decision: The Commission provided advice that this activity is allowable with restrictions related to other State employees and officials.

ITEM 29: Informal Matter – Maryland Transportation Authority (16-0542)

Discussion: Ms. Thompson briefed the Commission on a post-employment matter regarding a former employee in the Maryland Transportation Authority who now works for a company that wants to bid on two State projects.

Decision: The Commission determined that the post-employment restrictions prohibit the former employee from working on the specific contracts/projects at issue.

ITEM 30: Federal Subpoena Status

Discussion: Mr. Lord briefed the Commission on a federal grand jury subpoena seeking records relating to financial disclosure statements from several filers.

ITEM 31: Prince George’s County Zoning

Discussion: Mr. Lord briefed the Commission on a request from Prince George’s County regarding their zoning laws.

Decision: This matter is not within the Commission’s jurisdiction.

The meeting was reopened at 12:25 p.m.

ITEM 32: Executive Director Report – Regulation Changes

Discussion: Mr. Lord briefed the Commission on proposed changes to the Commission’s regulations regarding exceptions for political contributions to the term “gift”. While there have been no known problems in actual practice, the proposed changes are intended to eliminate a technical discrepancy that could be interpreted so that the exception did not apply with respect to municipalities.

Decision: The Commission approved the proposed changes.

ITEM 33: Executive Director Report – Records Retention

Discussion: Mr. Lord briefed the Commission on the Commission’s records retention schedule and several proposed changes including changing Item 8 to read Title 5 instead of Title 3, adding “Sheriffs” to Item 13 and changing retention for Items 14A and B from permanently retaining lobbying records to retaining those records for 4 years and destroying all prior years.

Decision: The Commission approved the proposed changes to the records retention schedule.

ITEM 34: Executive Director Report – Electronic Version of Commission Documents

Discussion: There was a general discussion of receiving Commission documents and whether the members wanted to go paperless. Additional information will be provided at the next meeting.

ITEM 35: Executive Director Report – Legislative Summary

Discussion: Mr. Lord briefed the Commission on proposed legislation regarding bills affecting the Public Ethics Law, discussed the expected impact of those bills if enacted, and obtained the Commission’s

guidance on the approach to take on the bills. The bills include: HB 283 – Procurement Prohibitions on Participation, HB 303 – Departmental Secretaries – Campaign and Working Hour Activities, HB 438 – Legislative Transparency Act, HB 879 – Public Integrity Act, HB 897 – Liquor Board Reform Act of 2017, HB 1073 – Maryland Technology Development Corporation, HB 1386 – Members and Employees of Boards of License Commissioners, SB 18 – Bicounty Commissions – Financial Disclosure, SB 832 – Public Funding and Small Donor Act for General Assembly Elections, and SB 1026 – Conflicts of Interest and Financial Disclosure Statements.

The meeting was adjourned at 1:20 p.m.