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MINUTES OF THE STATE ETHICS COMMISSION MEETING

June 28, 2012

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

Commission Member Absent: Andrea Leahy-FucHECK

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
Lauren Cramer, Intern

The meeting convened at 9:35 a.m. at the Commission's offices in Annapolis. Lauren Cramer, 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 May 17, 2012 Meeting

Discussion: The draft minutes of the May 17, 2012 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, Comptroller's Office, Department of the Environment, Department of Health & Mental Hygiene, Injured Worker's Insurance Fund, Maryland Higher Education Commission, Department of Education, Department of Labor, Licensing & Regulation, Department of Transportation, Maryland Transportation Authority, State Highway Administration, Department of Business & Economic Development and St. Mary's College of Maryland. The Regulatory & Compliance Engineer position in the Department of the Environment, the Administrator II position in the Maryland Higher Education Commission and the Computer Network Specialist I position in the Department of Business & Economic Development position were discussed in detail.

Decision: The Regulatory & Compliance Engineer position in the Department of the Environment and the Administrator II position in the Maryland Higher Education Commission were not deleted from the financial disclosure listing. The Computer Network Specialist I position in the Department of Business & Economic Development position was not added to the financial disclosure listing. The Commission approved the remainder of Mr. Lord's recommendations.

ITEM 4: Executive Unit Determinations

Discussion: Mr. Lord briefed the Commission on a list of boards and commissions recommended to be considered executive agencies covered by the Ethics Law.

Decision: The Commission determined that the following boards were executive agencies, therefore covered by the Ethics Law:

- State Board of Architectural Review
- State Council on Child Abuse and Neglect
- Council for the Procurement of Health, Educational and Social Services
- Task Force to Study the Laws and Policies Relating to Representation of Indigent Defendants by the Office of the Public Defender
- Northeast Maryland Higher Education Advisory Board
- Task Force to Study the Establishment of a Deaf Culture Digital Library
- Maryland Innovation Initiative
- Workgroup on Lead Liability Protection for Rental Property
- Task Force to Study Economic Development and Apprenticeships
- Financial Education and Capability Commission
- Communications Taxes – Reform Commission
- Task Force to Study Access of Individuals with Mental Illness to Regulated Firearms
- Maryland Advisory Council for Virtual Learning
- Multidisciplinary Alternative Response Advisory Council
- Task Force to Study the Renovation and Repair Needs of Senior Homeowners
- Animal Waste Technology Fund Advisory Committee
- Workgroup on Access to Habilitative Services Benefits
- Technical Advisory Group on the Medically Necessary and Appropriate Use of Habilitative Services to Treat Autism Spectrum Disorders
- Maryland Higher Education Commission – Student Transfer Advisory Committee

The Commission determined that the following boards were not executive agencies, therefore not covered by the Ethics Law:

- Task Force to Study the County and Municipal Revenue Structure
- Task Force on Military Service Members, Veterans and the Courts
- Tax Credit Evaluation Committee
- Task Force to Study Rates and Changes in the Washington Suburban Sanitary District
- Task Force to Study Maryland Insurance of Last Resort Programs
- Workgroup to Access Effects of HB 1411 on the MDE Wetlands and Waterways Program

ITEM 5: Local Government – Draft Ethics Laws – Counties

Discussion: Ms. Allgair briefed the Commission on the proposed ethics laws, policies and regulations received from Baltimore County and Cecil County.

Decision: The Commission approved the proposed ethics laws, policies and regulations for Baltimore County and Cecil County.

ITEM 6: Local Government – Draft Ethics Laws – Municipalities

Discussion: Ms. Allgair and Ms. Daly briefed the Commission on the proposed and adopted ethics laws, policies and regulations received from the City of Crisfield, Town of Williamsport, Town of Poolesville, and the Town of Centreville.

Decision: The Commission approved the proposed and adopted ethics laws, policies and regulations received from the City of Crisfield, Town of Williamsport, Town of Poolesville, and the Town of Centreville.

ITEM 7: 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 Prince George's County Board of Education, Allegany County Board of Education, Howard County Board of Education, Charles County Board of Education, Kent County Board of Education, Cecil County Board of Education, Baltimore City Public Schools and Caroline County Board of Education.

Decision: The Commission approved the drafts and adopted ethics policies and regulations.

ITEM 8: Executive Director's Report – Assistant General Counsel's Departure

Discussion: There was a general discussion of the departure of Deadra Daly from the Ethics Commission, who has accepted a position as Ethics Counsel to the Maryland General Assembly.

ITEM 9: Executive Director's Report - Trainings

Discussion: Mr. Lord briefed the Commission on trainings conducted by the staff and the request from MTA to train all or most of its staff.

ITEM 10: 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. Further identified for the Commission were a number of issues that might be addressed by the workgroup created by SB 920. There has been no word as to when the workgroup will get started.

Decision: The Commission decided that it will develop a position on issues considered by the workgroup as those issues come up, and discussions can occur among Commission members by conference call and email.

ITEM 11: Local Government – Town of Greensboro (11-0501)

Discussion: Ms. Allgair briefed the Commission on the full exemption request received from the Town of Greensboro. Janet DeLude, Town Manager, spoke on behalf of the Town of Greensboro.

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

ITEM 12: Local Government – Town of Princess Anne (11-0489)

Discussion: Ms. Allgair briefed the Commission on the continuation of a partial exemption request received from the Town of Princess Anne. Paul Wilbur, Town Attorney; Council President Haywood and Councilman Thomas spoke on behalf of the Town of Princess Anne.

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

ITEM 13: Local Government – Pocomoke City (11-0424)

Discussion: Ms. Allgair briefed the Commission on the continuation of a partial exemption request received from Pocomoke City. Paul Wilbur, Esq. spoke on behalf of Pocomoke City.

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

ITEM 14: Local Government – Town of Pittsville (12-0084)

Discussion: Ms. Allgair briefed the Commission on the full exemption request received from the Town of Pittsville. Paul Wilbur, Town Attorney, spoke on behalf of the Town of Pittsville.

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

ITEM 15: Local Government – Town of Delmar (12-0107)

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

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

ITEM 16: Local Government – Town of Williamsport (12-0090)

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

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

ITEM 17: Local Government – Town of Mardela Springs (12-0089)

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

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

ITEM 18: Local Government – Town of Barnesville (12-0083)

Discussion: Ms. Allgair briefed the Commission on a full exemption request or the continuation of a partial exemption request received from the Town of Barnesville.

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

ITEM 19: Continuation of Executive Director's Report – Local Government Conference

Discussion: Mr. Lord briefed the Commission on discussions with MACO, MML and MABE regarding hosting a local government conference.

Decision: The groups were interested in putting a conference together, possibly on a regional basis, in the Fall of 2013. The timing will allow discussion of any legislation that is generated in the 2013 Legislative Session following the efforts of the workgroup established by SB 920.

ITEM 20: Executive Director's Report – Records Retention

Discussion: Mr. Lord briefed the Commission on proposed changes to the Commission's record retention policy.

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

ITEM 21: Executive Director's Report – Financial Disclosure Filing

Discussion: Mr. Lord asked the Commission to consider adopting a policy for addressing extensions to filers who are on extended leave, due to illness, military service or other reasons beyond their control.

Decision: The Commission will adopt a policy whereby the decision whether to permit a public official to file a financial disclosure statement after the April 30 deadline (without being subject to enforcement action) is vested in the Executive Director.

ITEM 22: Local Government Matter – Formal Consideration of Exemption Requests

Discussion: Ms. Allgair briefed the Commission on four new requests from municipalities seeking exemptions and requested that the Commission consider these requests at the September 13, 2012 meeting. The Commission received requests from the City of Westminster, the Town of Sharptown, the Town of Fairmount Heights, and the Town of Goldsboro.

ITEM 23: Proposed Changes to Commission's Regulations

Discussion: Ms. Daly briefed the Commission on proposed changes to the Commission's Financial Disclosure Regulations – Board and Commission Members; Secondary Employment and Financial Interest Exception Regulations; Participation Exception Regulations; and Activity Reports Regulations.

Decision: The Commission approved the draft regulations.

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

ITEM 24: Draft Advisory Opinion – REQ-12-01r

Discussion: Ms. Allgair briefed the Commission on the draft advisory opinion.

Decision: The Commission approved the draft advisory opinion.

ITEM 25: Informal Matter - Secondary Employment - Department of Human Resources (11-0591)

Discussion: Ms. Daly briefed the Commission on a secondary employment request regarding an employee in the Department of Human Resources wanting to be a direct care provider for a private organization that is regulated by DHR.

Decision: The Commission determined this secondary employment is not allowable.

ITEM 26: Informal Matter – Secondary Employment - Department of Human Resources (12-0170)

Discussion: Ms. Allgair briefed the Commission on a secondary employment request regarding an employee in the Department of Human Resources wanting to continue her employment as a therapist and consultant for a private mental health counseling practice.

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

ITEM 27: Informal Matters – Secondary Employment - Department of Human Resources (12-0229)

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 sales associate at a department store.

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

ITEM 28: Informal Matters – Secondary Employment – State Highway Administration (12-0228)

Discussion: Ms. Allgair briefed the Commission on a secondary employment request regarding an employee in the State Highway Administration wanting to continue working as an alarm monitor for a private security company.

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

ITEM 29: Informal Matters – Financial Interest – Department of Health & Mental Hygiene (12-0253)

Discussion: Ms. Daly briefed the Commission on a financial interest request regarding a DHMH employee's attributable interest in a proposed assisted living facility which DHMH regulates.

Decision: The Commission determined this financial interest is allowable under the financial interest exception criteria in the Commission's regulations.

ITEM 30: Informal Matters – Secondary Employment - Department of the Environment (12-0232)

Discussion: Ms. Allgair briefed the Commission on a secondary employment request regarding an employee in the Department of the Environment wanting to work as a field inspector for a research group conducting research and data collection at a Department of the Environment facility.

Decision: The Commission determined that this secondary employment is not allowable.

ITEM 31: Informal Matters – Secondary Employment - Department of the Environment (12- 0233)

Discussion: Ms. Allgair briefed the Commission on a secondary employment request regarding an employee in the Department of the Environment wanting to work as a field inspector for a research group conducting research and data collection at a Department of the Environment facility.

Decision: The Commission determined that this secondary employment is not allowable.

ITEM 32: Informal Matters – Post-Employment – Maryland Transit Administration (12-0252)

Discussion: Ms. Daly briefed the Commission on a post-employment request regarding an employee in the Maryland Transit Administration wanting to be a maintenance fleet manager with a private bus service.

Decision: The Commission determined this post-employment activity is not allowable.

ITEM 33: Informal Matters – Post-Employment – Maryland Transit Administration (12-0252)

Discussion: Ms. Daly briefed the Commission on a post-employment request regarding a former employee of the Maryland Transit Administration wanting to be an executive director for a county transit system.

Decision: The Commission determined this post-employment activity is allowable.

ITEM 34: Informal Matter – Procurement Memo Update

Discussion: Mr. Lord presented changes to the Commission's informational memorandum on procurement.

Decision: The Commission approved the changes proposed.

ITEM 35: Informal Matter – Lobbyist Registration Exemption (12-0262)

Discussion: Ms. Daly briefed the Commission on an existing, but seldom cited exemption from lobbying regulation in certain circumstances for trustees, administrators or faculty members.

Decision: The Commission reconfirmed its previous position.

ITEM 36: Informal Matter – Event Tickets

Discussion: Ms. Allgair advised the Commission of a situation where a public official was offered tickets to a sporting event and sought guidance from the Commission.

Decision: The Commission agreed that, if the source of the tickets was not a controlled donor, it was not prohibited for a public official to accept them under the gift provisions.

(Mr. Lord, Mr. Colquhoun, Ms. Whitehead and Ms. Schutz participated in the briefings but did not participate in the decisions regarding items 37 through 44.)

ITEM 37: A-16-12

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

Decision: This matter will be closed.

ITEM 38: A-22-12

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

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

ITEM 39: A-27-12

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

Decision: This matter is stayed pending review by another agency.

ITEM 40: A-23-12

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

Decision: The Commission will accept the late filing agreements.

ITEM 41: A-25-12

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

Decision: The Commission will accept the late filing agreements.

ITEM 42: A-26-12

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

Decision: Complaints will be issues in these matters. (C-12-12, C-13-12, C-14-12, C-15-12, C-16-12, C-18-12, C-21-12, C-22-12, C-23-12, C-24-12, C-25-12, C-26-12, C-27-12 and C-28-12)

ITEM 43: C-2-12

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

Decision: The Commission will issue a notice of hearing.

ITEM 44: C-6-12

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

Decision: The Commission will issue a notice of hearing.

The meeting was adjourned at 1:50 p.m.