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## STATE ETHICS COMMISSION

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*Assistant General Counsel*

### MINUTES OF THE STATE ETHICS COMMISSION MEETING

January 24, 2013

Commission Members Present: Julian L. Lapidés, *Acting Chairman*  
Robert G. Blue  
Andrea Leahy-Fuccheck  
Jacob Yosef Miliman

Commission Member Absent: Paul M. Vettori

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 Whitehead, Legal Assistant  
Megan W. Schutz, Legal Assistant

The meeting convened at 10:05 a.m. at the Commission's offices in Annapolis.

#### ITEM 1: Tentative Agenda

Discussion: The Commission reviewed the tentative agenda.

Decision: The tentative agenda was approved with additions.

#### ITEM 2: Minutes of the October 25, 2012 Meeting

Discussion: The draft minutes of the October 25, 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, Injured Workers Insurance Fund, Department of Housing & Community

Development, Department of Natural Resources, Public Service Commission, Department of Health & Mental Hygiene, Department of Public Safety & Correctional Services, Department of Business & Economic Development, Department of Transportation, Maryland Transportation Authority, Motor Vehicle Administration, Maryland Aviation Administration, University of Maryland College Park, University of Maryland-Baltimore, Morgan State University and Montgomery College. The Loss Control Consultant in the Injured Workers Insurance Fund should not have been on the list and should be deleted. The Administrator I position in the Department of Public Safety & Correctional Services was discussed in detail.

Decision: The Administrator I position in the Department of Public Safety & Correctional Services was not deleted from the financial disclosure listing. The Commission approved Mr. Lord's other recommendations.

#### ITEM 4: Board and Commission Executive Unit Determinations

Discussion: Mr. Lord briefed the Commission on the Harriet Tubman Statue Commission and the State Advisory Council on Early Childhood Education and Care as to whether or not they should be considered executive agencies covered by the Ethics Law.

Decision: The Commission determined the Commission on the Harriet Tubman Statue Commission and the Advisory Council on Early Childhood Education and Care should be considered executive agencies covered by the Public Ethics Law.

#### ITEM 5: Financial Disclosure Exemption Request

Discussion: Mr. Lord briefed the Commission on the Council for Procurement of Health, Educational and Social Services requesting an exemption from the financial disclosure requirement.

Decision: The Commission approved an exemption for the Council for Procurement of Health, Education and Social Services.

#### ITEM 6: Executive Director's Report – Maryland Municipal League's Draft Legislation

Discussion: Mr. Lord briefed the Commission on the staff's meeting with representatives of the Maryland Municipal League in December to discuss MML's concerns about the municipality exemption process that has been underway following the passage of SB 315. He also briefed the Commission regarding legislation drafted by MML to address their members' concerns regarding financial disclosure requirements for local elected officials and asked for the Commission's views on whether or not to support the MML legislation.

Decision: The Commission will continue with the position it took in 2012 to support the limited change proposed by SB948 which was introduced but not passed, but not to support any additional modifications to the financial disclosure requirements for local elected officials.

#### ITEM 7: Local Government – Village of Chevy Chase

Discussion: Ms. Allgair briefed the Commission on the request for new consideration of a full exemption request received from the Village of Chevy Chase. Michael Denger, a member of the Board of Managers, spoke on behalf of the Village of Chevy Chase.

Decision: The Commission determined that it would consider Chevy Chase Village's new request for a full exemption or modification to the financial disclosure requirements at a future meeting.

ITEM 8: Local Government – Town of Kensington

Discussion: Ms. Allgair briefed the Commission on the full exemption request received from the Town of Kensington. Suellen Ferguson spoke on behalf of the Town of Kensington.

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

ITEM 9: Local Government – Town of Snow Hill

Discussion: Ms. Allgair briefed the Commission on the full exemption request received from the Town of Snow Hill. Bruce Bright spoke on behalf of the Town of Snow Hill.

Decision: The Commission granted a partial exemption permitting the Town of Snow Hill not to adopt lobbying provisions.

ITEM 10: Local Government – Town of Chevy Chase

Discussion: Ms. Allgair briefed the Commission on the full exemption request received from the Town of Chevy Chase. Ronald Bolt spoke on behalf of the Town of Chevy Chase.

Decision: The Commission granted a partial exemption permitting the Town of Chevy Chase not to adopt lobbying provisions.

ITEM 11: Local Government – Town of Manchester

Discussion: Ms. Allgair briefed the Commission on the full exemption request received from the Town of Manchester. Tammy Black spoke on behalf of the Town of Manchester.

Decision: The Commission granted a partial exemption permitting the Town of Manchester not to adopt lobbying provisions.

ITEM 12: Local Government – Town of Colmar Manor

Discussion: Ms. Allgair briefed the Commission on the full exemption request received from the Town of Colmar Manor. John Barr, Town Attorney, spoke on behalf of the Town of Colmar Manor.

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

ITEM 13: Local Government – Town of Forest Heights

Discussion: Ms. Allgair briefed the Commission on the full exemption request received from the Town of Forest Heights. Kevin Best spoke on behalf of the Town of Forest Heights.

Decision: The Commission granted a partial exemption permitting the Town of Forest Heights not to adopt lobbying provisions.

ITEM 14: Local Government – Town of North Beach

Discussion: Ms. Allgair briefed the Commission on the full exemption request received from the Town of North Beach. Stacy Wilkerson spoke on behalf of the Town of North Beach.

Decision: The Commission granted a partial exemption permitting the Town of North Beach not to adopt lobbying provisions.

ITEM 15: Local Government – Town of Brentwood

Discussion: Ms. Allgair briefed the Commission on the full exemption request received from the Town of Brentwood. Mayor Roger Rudder spoke on behalf of the Town of Brentwood.

Decision: The Commission granted a partial exemption permitting the Town of Brentwood not to adopt lobbying provisions.

ITEM 16: Local Government – Town of Myersville

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

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

ITEM 17: Local Government – Town of Middletown

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

Decision: The Commission granted a partial exemption permitting the Town of Middletown not to adopt lobbying provisions.

ITEM 18: Local Government – Town of Mountain Lake Park

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

Decision: The Commission granted a full exemption for the Town of Mountain Lake Park.

ITEM 19: Local Government – Town of Rising Sun

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

Decision: The Commission granted a partial exemption permitting the Town of Rising Sun not to adopt lobbying provisions.

ITEM 20: Local Government – Requests for Municipal Ethics Law Exemptions

Discussion: Ms. Allgair briefed the Commission on the full exemption requests received from the Town of Morningside, Town of Midland and the Town of Chesapeake Beach.

Decision: The Commission granted a continuation of a full exemption for the Town of Midland. The Town of Morningside and the Town of Chesapeake Beach will be reviewed at an upcoming meeting with 60 days notice to the jurisdictions.

ITEM 21: Executive Director's Report - Legislation

Discussion: Mr. Lord briefed the Commission on various legislative issues, including: meetings with legislators and staff in December to explain the local government exemption process the Commission has been employing since late 2011; the upcoming meeting of the Workgroup to Review Disclosure Requirements); legislation introduced to date.

Decision: The Commission will oppose SB316 (special post-employment provisions for Frederick County) and SB453 (adding a member of the State or Local Central Committee of a political party to the definition of public official for financial disclosure purposes only). As additional bills affecting the Ethics Law are introduced, Mr. Lord will contact the Commissioners to solicit their views on the position the Commission should take.

ITEM 22: Executive Director's Report – Commission's New Website

Discussion: The Commission will have a new website available next week.

Meeting was closed at 1:25 P.M. to consider confidential enforcement matters and advice matters.

ITEM 23: A-41-12

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

Decision: This matter will be placed on the Preliminary Inquiry Docket. (B-1-13)

ITEM 24: A-42-12

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

Decision: This matter will be closed.

ITEM 25: B-2-12

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

Decision: The Commission did not accept the proposed cure.

ITEM 26: A-3-13 (Ms. Allgair did not participate in this matter. Mr. Lord acted as General Counsel for this matter.)

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

Decision: The Commission issued the complaint. (C-13-13)

ITEM 27: A-29-12

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

Decision: The Commission accepted the late filing agreement.

ITEM 28: A-43-12

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

Decision: The Commission accepted these late filing agreements.

ITEM 29: A-1-13

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

Decision: Complaints will be issued in these matters. (C-1-13 through C-12-13)

ITEM 30: C-14-12

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

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

ITEM 31: C-31-12

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

Decision: This matter is closed.

ITEM 32: C-33-12

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

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

(Mr. Lord, Mr. Colquhoun, Ms. Whitehead and Ms. Schutz participated in the briefings but did not participate in the decisions regarding items 23 through 32.)

ITEM 33: Local Government – Draft Ethics Laws – Municipalities

Discussion: Ms. Allgair briefed the Commission on the proposed and adopted ethics laws, policies and regulations received from the Town of North East, Town of Rising Sun, Town of Bel Air, Town of Thurmont, Baltimore City and the City of Rockville.

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

ITEM 34: Discussion on Commission Enforcement Policy

Discussion: Mr. Lord reminded the Commission that under the Public Ethics Law the Commission has the discretion to issue a complaint for a violation of the Law. He then briefed the Commission on the policy/practice that has been in place for dealing with untimely filings of lobbying activity reports (a “no grace period” policy approved by the Commission in early 2011) and financial disclosure statements (a practice of making multiple efforts to encourage filers to comply and ultimately seeking agency assistance if necessary). He asked for the Commission’s approval to continue the policy/practice currently in place.

Decision: The Commission approved the continuation of the policy with respect to late lobbying activity reports and the practice to work with delinquent financial disclosure filers and their agencies.

ITEM 35: Executive Director’s Report – Discussion on Lobbyist Training Requirements

Discussion: Mr. Lord briefed the Commission on lobbyist training requirements, noting that while the Public Ethics Law requires the Commission to provide training to lobbyists and requires lobbyists to take it, there are no sanctions (e.g. termination of a lobbyist's registration) for failure to comply. He asked the Commission to agree to a change to the lobbyist registration form to include a "certification" section where the lobbyist will sign and certify he/she has satisfied the training requirements of the Law.

Decision: The Commission approved the change to the form.

ITEM 36: Executive Director's Report – Discussion of Electronic Signatures

Discussion: Mr. Lord briefed the Commission on a question he received as to whether or not electronic signatures were acceptable on a lobbying registration form. He noted that Maryland has adopted the Uniform Electronic Transaction Act, which provides for acceptance of electronic signatures on most State documents.

Decision: The Commission will accept electronic signatures on lobbying registration forms only.

ITEM 37: Informal Matter – Towson University (12-0535)

Discussion: Ms. Thompson briefed the Commission on a secondary employment request regarding an employee with Towson University who also works as an adjunct faculty member at a private university.

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

ITEM 38: Informal Matter – Department of Human Resources (12-0573)

Discussion: Ms. Thompson briefed the Commission on a secondary employment request regarding an employee in the Department of Human Resources who also works as a basketball coach at a middle school.

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

ITEM 39: Informal Matter – Department of Human Resources (12-0550)

Discussion: Ms. Thompson briefed the Commission on a secondary employment request regarding an employee in the Department of Human Resources who also works as a part-time admissions coordinator for a private mental health service.

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

ITEM 40: Informal Matter – Department of Human Resources (12-0561)

Discussion: Ms. Thompson briefed the Commission on a secondary employment request regarding an employee in the Department of Human Resources who also works as an on-call substitute staff worker at non-profit community service organization.

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

ITEM 41: Informal Matter – MIEMMS (12-0568)

Discussion: Ms. Thompson briefed the Commission on a secondary employment request regarding an employee in the Maryland Institute for Emergency Medical Services Systems who also works as a paramedic for a commercial ambulance service.

Decision: The Commission granted an exception to allow the dual employment with certain restrictions.

ITEM 42: Informal Matter – State Highway Administration (12-0589)

Discussion: Ms. Thompson briefed the Commission on a secondary employment and financial interest request regarding an employee in the State Highway Administration who also who has his own excavating and outdoor advertising businesses.

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

ITEM 43: Informal Matter - Department of Human Resources (12-0523)

Discussion: Ms. Allgair briefed the Commission on the status of this matter regarding whether the Commission would reconsider its current interpretation of the Public Ethics Law regarding the application of the secondary employment and financial interests restrictions of § 15-502 as they apply to DHR employees who want to become public agency foster parents. The Commission reviewed two draft letters prepared by staff for distribution to the agency.

Decision: The Commission determined that service as a public agency foster parent is not employment or a financial interest for the purposes of §15-502 of the Public Ethics Law. The Commission approved the draft letter to be sent to the agency by Commission staff.

ITEM 44: Informal Matter – Lobbying (12-0571)

Discussion: Ms. Allgair briefed the Commission on a whether a potential lobbying fee arrangement is considered to be a prohibited contingency fee.

Decision: The Commission determined the lobbyist and client should make arrangements for an hourly rate or set a monthly fee for lobbying services rather than issuing stock shares as compensation for lobbying services due to concerns over the appearance of a contingency fee payment.

ITEM 45: Informal Matter – State Highway Administration (12-0542)

Discussion: Ms. Allgair briefed the Commission on a retired employee of the State Highway Administration who is now a vice president for a consulting company whose engineering and design firm works on SHA contracts.

Decision: The Commission determined the former employee is precluded from working on matters related to the specific SHA contracts at issue due to his significant participation in these specific contracts while employed by SHA. However, the employer is not barred from continuing work on matters awarded prior to this employee's departure from State service.

ITEM 46: Informal Matter – Legislative Office (12-0546)

Discussion: Ms. Allgair briefed the Commission on a former employee in the Governor's Legislative Office who is working for a lobbying firm and the impact of the post-employment provisions of the Ethics Law on his future private lobbying activities.



Decision: The Commission directed staff to provide written advice to the individual regarding post-employment restrictions under § 15-504(d) of the Public Ethics Law and to advise the individual not to represent lobbying clients on Departmental legislation during the current legislative session.

ITEM 47: Executive Director's Report – Political Activity – Constituent Services and Use of Official Letterhead

Discussion: Mr. Lord briefed the Commission on the revisions to the Commission's special informational memorandum on political activity to include constituent services and the use of official letterhead.

Decision: The Commission approved the revisions to the political activity memo.

ITEM 48: Executive Director's Report – Draft Gift Law Memorandum

Discussion: Mr. Lord briefed the Commission on the draft gift law memorandum.

Decision: The Commission approved the draft gift law memorandum.

The meeting was adjourned at 3:35 p.m.