

Merom Brachman, *Chairman*
Megan C. Kelley, *Vice Chair*
Bruce E. Bailey
Julie A. Rutter
Elizabeth E. Tracy
Mark A. Vander Laan



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Paul M. Nick
Executive Director

OHIO ETHICS COMMISSION
MINUTES OF MEETING
AUGUST 28, 2020

MEMBERS OF THE COMMISSION

Merom Brachman	Megan C. Kelley	Bruce Bailey
Elizabeth E. Tracy	Julie A. Rutter	Mark A. Vander Laan

CALL TO ORDER

The meeting of the Ohio Ethics Commission was called to order at 11:04 a.m. via conference call as authorized by Am Sub. HB 197.

ROLL CALL

The following Commission Members were present on the conference call: Mr. Brachman, Mr. Bailey, Ms. Kelley, Ms. Rutter, Ms. Tracy, and Mr. Vander Laan. Staff present in the Ethics Commission Office Conference Room: Executive Director Paul M. Nick; IT & FD Administrator Brian Ring; and HR & Fiscal Manager Alan Carlson. Staff present via teleconference call: Deputy Director/General Counsel Jed Hood; Chief Investigative Attorney Julie Korte; Investigative Attorney Molly Bruns; Principal Assistant Attorney General Hilary Damaser.

EXECUTIVE SESSION

MOTION by Mr. Vander Laan, seconded by Ms. Tracy, to go into Executive Session to discuss matters that are statutorily confidential, including pending litigation, updates on investigations and complaints, and the confidential financial disclosure report. Mr. Bailey, Ms. Kelley, Ms. Rutter, Ms. Tracy, Mr. Vander Laan, and Mr. Brachman voted "yes." The motion was approved, and the Commission, pursuant to Section 102.06 of the Revised Code, went into Executive Session at 11:05 a.m.

The Commission returned to open session at 11:30 a.m.

Joining the meeting via teleconference following the Executive Session were: Chief Advisory Attorney Karen King; Advisory Attorneys John Rawski and Tim Gates; and Education & Communications Administrator Susan Willeke.

PREVIOUS MEETING MINUTES

The Commission reviewed the draft minutes from the July 10, 2020 Commission meeting.

MOTION by Mr. Vander Laan, seconded by Ms. Kelley, that the Commission approve the minutes of the July 10, 2020 meeting minutes. Mr. Bailey, Ms. Kelley, Ms. Rutter, Ms. Tracy, Mr. Vander Laan, and Mr. Brachman voted “yes.” The motion was approved.

The Commission also reviewed the draft minutes from the August 13, 2020 Advisory Committee meeting.

MOTION by Mr. Bailey, seconded by Ms. Kelley, that the Committee approve the minutes of the August 13, 2020 meeting minutes. Mr. Bailey, Ms. Kelley, and Ms. Rutter, voted “yes.” The motion was approved.

Mr. Brachman noted that he and Mr. Nick had conversations on August 27, 2020 with the Columbus Dispatch regarding a news story that had been initially reported by the AP News Service. The article quoted a posting on Ohio House Representative Nino Vitale’s Facebook page that erroneously stated that Rep. Vitale had conferred with and received guidance from the Ohio Ethics Commission regarding alleged campaign finance violations. The Columbus Dispatch was able to correct the story in the online version, though the hard copies had already gone to press. Mr. Nick reported that he left a message with Rep. Vitale’s office noting the error and requesting that they update his Facebook page.

ADVISORY OPINIONS AND STATISTICS

Mr. Nick reviewed the advisory charts and activity report included in the packet. Mr. Nick commended the advisory staff for keeping up with advisory matters while teleworking.

Mr. Brachman and Mr. Bailey asked Mr. Gates about staff opinions on the activity report. Mr. Bailey asked that staff revisit its approach to addressing whether any applicable exceptions are met and encouraged staff to follow up with requesters when necessary to obtain relevant facts even if that delays response times.

Mr. Nick noted that staff has begun including information on the activity report on who has been sent copies of the staff opinions, in response to Commission feedback.

Mr. Brachman thanked and commended Mr. Rawski for his decades of service to the Ethics Commission and public officials across the state. Mr. Bailey quipped that he regretted that Mr. Rawski wrote the opinion that would prohibit the Commission from giving him the gift that he deserves. The Commission members agreed and commended Mr. Rawski for his service.

Mr. Hood reviewed the reconsideration request received from the County Auditor’s Association regarding whether or not a county auditor is prohibited from receiving compensation from a private person or entity who owns property in the county in which he serves as auditor. Mr. Hood explained that two former staff opinions issued to County Auditor’s Matt Nolan and Michael Stinziano stated that a county auditor is prohibited from receiving compensation from a private person or entity who owns property in the county in which he serves as auditor because the auditor is unable to withdraw from his or her statutory duties as auditor. Mr. Hood stated that the County Auditor’s Association provided new facts and identified specific statutory authority that permits a county auditor, with the approval of the county tax commissioner, to

appoint an employee or enter into a contract with a professional appraisal firm to perform the auditor's duties as assessor. Mr. Hood stated that these provisions make it possible for a county auditor to withdraw from his or her public duties to avoid a conflict of interest. Mr. Hood noted that the Advisory Committee recommended that the reconsideration request be granted. Mr. Brachman asked if two separate letters would be sent to Mr. Nolan and Mr. Stinziano. Mr. Nick said that Mr. Hood would draft two separate opinions, which would be circulated to the Committee for review and signed by the Chairman. Mr. Nick said that, in the meantime, the letter in the packet would be sent to the County Auditor's Association under the Chairman's signature.

MOTION by Mr. Bailey, seconded by Mr. Vander Laan, that reconsideration be granted and that the original opinions be reversed. Mr. Bailey, Mr. Brachman, Ms. Kelley, Ms. Rutter, Ms. Ms. Tracy, and Mr. Vander Laan voted "yes". The motion was approved.

EXECUTIVE DIRECTOR'S REPORT

Mr. Nick stated that despite having to primarily telework during the pandemic, all staff has succeeded in providing prompt services to the public in all of the Commission's main functions. He reported that he has received a lot of positive feedback about the promptness of staff's responses to inquiries from public officials.

Mr. Nick updated the Commission on the budget and pointed out that additional funding will be needed in the next biennium to maintain current staffing levels and obtain needed IT updates and equipment.

Mr. Nick reported that the Management Letter from the Auditor of State was released on August 2, 2020 and that each member should be receiving a copy. He commended Alan Carlson and Kayla Parillo for their work in keeping the Commission in compliance with all fiscal, payroll and HR matters that were reviewed and tested during the audit.

LEGISLATION UPDATE

Mr. Hood reviewed the legislative report in the packet

PUBLIC EDUCATION AND INFORMATION

Ms. Willeke summarized a proposal to purchase a webinar license to allow staff to conduct unlimited numbers of webinars both during and after the pandemic. This will allow the staff to provide speeches in lesser served communities that normally aren't able to have enough attendees to sponsor a Commission speech and that lacked the software to host a webinar. Mr. Nick noted that there was a current freeze on state agencies signing new contracts, but that staff could seek an exception. The Commission was supportive of this request.

Mr. Nick asked that the Commission support staff's recommendation to cancel and deny future requests for all in-person speeches for the remainder of 2020 due to the pandemic and the current prohibition against gatherings of more than 10 persons. Ms. Willeke stated that staff will continue to provide webinars and e-course learning options. The Commission agreed that staff should not provide in person training through the end of 2020.

FINANCIAL DISCLOSURE STATISTICS REPORT/COMPLAINT REPORT

Mr. Ring reported that the FDS deadline was July 15, 2020 and that reminders to late filers were mailed the next day. Warning letters to those who still had not filed were mailed approximately 30 days later. Since the packet materials were sent to Commission members, approximately 40 additional forms have been filed.

Ms. Bruns reported that she will return to court in September for an FDS filer who was found guilty of filing an incomplete form. The sentencing was postponed to allow the filer to complete and correct the form.

MOTIONS

Complaint Dismissals:

MOTION by Ms. Tracy, seconded by Mr. Vander Laan, to dismiss the financial disclosure complaints against the individuals listed in the packet report for good cause shown. Mr. Bailey, Ms. Kelley, Ms. Rutter, Ms. Tracy, Mr. Vander Laan, and Mr. Brachman voted “yes.” The motion was approved.

Late Fee Waivers:

MOTION by Mr. Vander Laan, seconded by Ms. Kelley, to waive the late fees for the individuals listed in the packet report. Ms. Kelley, Ms. Rutter, Ms. Tracy, Mr. Vander Laan, and Mr. Brachman voted “yes.” Mr. Bailey abstained. The motion was approved.

DATE OF FUTURE MEETING

The Commission set the next meeting for Friday, October 2, 2020 at 12:00 p.m.

The meeting was adjourned at 12:36 p.m.

These minutes are respectfully submitted by:



Paul M. Nick
Executive Director