

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

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OHIO ETHICS COMMISSION
MINUTES OF MEETING
OCTOBER 2, 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 12:05 p.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; and Investigative Attorney Molly Bruns.

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, the confidential financial disclosure report, and executive compensation. 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 12:06 p.m.

The Commission returned to open session at 12:31 p.m.

Joining the meeting via teleconference following the Executive Session were: Chief Advisory Attorney Karen King; Advisory Attorney Tim Gates; Education & Communications Administrator Susan Willeke; and Principal Assistant Attorney General Hilary Damaser.

RESOLUTION

Mr. Brachman stated that this is a resolution with regard for the many different categories of State employees and officials and mindful of budgeting in this pandemic era. With intent of Commissioners to

fulfill staff management purposes, the Resolution is for modest attention to the annual earnings category of each of our two executives. Those positions have continued to exercise very full responsibilities for statutory missions of the Commission that apply in and to all 88 counties, for wide functions of State government. With resolve to meet commitments, and in context of the Commission's ongoing further reductions of current fiscal year expenditures, this request aims to fulfill the purpose I referenced for our two executives, under longstanding statutory authority the Commission has to set their compensation.

Mr. Brachman then read the following resolution into the record:

Whereas the Commission has the authority, under RC 102.05, to set the compensation of its Executive and Deputy Director; and whereas the Commission had intended at the beginning of FY 21 to provide to its two executives at least the same parity increase then scheduled for the majority of other state employees; therefore, be it resolved, that the Chairman be authorized to submit a personnel action request that the hourly salary of its Executive Director be increased by \$1.79 and its Deputy Director be increased by \$1.59, effective this pay period.

MOTION by Mr. Vander Laan, seconded by Ms. Tracy and Ms. Kelley, to approve the resolution. Mr. Bailey, Ms. Kelley, Ms. Rutter, Ms. Tracy, Mr. Vander Laan, and Mr. Brachman voted "yes." The motion was approved.

PREVIOUS MEETING MINUTES

The Commission reviewed the draft minutes from the August 28, 2020 Commission meeting.

MOTION by Mr. Bailey, seconded by Ms. Tracy, that the Commission approve the minutes of the August 28, 2020 Commission meeting. Mr. Bailey, Ms. Kelley, Ms. Rutter, Ms. Tracy, Mr. Vander Laan, and Mr. Brachman voted "yes." The motion was approved.

The Commission then reviewed the draft minutes from the September 11, 2020 Advisory Committee meeting.

MOTION by Mr. Bailey, seconded by Ms. Kelley, that the Committee approve the minutes of the September 11, 2020 Advisory Committee meeting. Mr. Bailey, Ms. Kelley, and Ms. Rutter, voted "yes." The motion was approved.

Mr. Brachman expressed his appreciation on behalf of the entire Commission to the Advisory Committee and the Advisory staff for the time and efforts in addressing the questions that have arisen that impact a wide range of public officials and employees across the entire state.

ADVISORY OPINIONS AND STATISTICS

Mr. Nick reviewed the investigative and advisory charts and activity report included in the packet. He pointed out that both the investigative and advisory charts show an increase in matters related to outside business and post-employment conflicts of interest. He also noted that the majority of all investigations and advisory requests originate from local, and not State, government entities.

Mr. Brachman discussed several staff opinions on the activity report and noted a few opinions where it would be useful to send drafts to the legal counsel for the respective public agency involved. Mr. Brachman also noted that there is a wide range of questions on this activity report and commended requesters for coming to the Commission for guidance.

Mr. Brachman said that he and Mr. Bailey have discussed the types of advisory guidance the Commission currently provides and possibly broadening advisory processes. Mr. Brachman suggested that the Advisory Committee consider other less complicated ways of providing specific and direct guidance that do not involve a full advisory opinion that provides immunity.

Ms. King reviewed a draft of a formal advisory opinion (2020-03) regarding public officials attending ceremonial events. Ms. King explained that the draft is a restatement of two informal advisory opinions previously issued by the Commission. Ms. King stated that the purpose of the formal opinion is to provide context, further clarification, and guidance to other similarly situated public officials and employees by creating criteria that will help identify when attendance at a ceremonial event is objectively related to the public official's or employee's public position. Mr. Brachman requested that criteria (d) be less restrictive - specifically the statement that the event be "directly related to the mission" of the public agency. Ms. King suggested broadening criteria (d) by removing the word "directly." Mr. Brachman agreed and asked that staff rephrase criterion (d).

MOTION by Mr. Vander Laan, seconded by Ms. Kelley, to approve Formal Opinion 2020-03, with the changes discussed. Mr. Bailey, Mr. Brachman, Ms. Kelley, Ms. Rutter, Ms. Tracy, and Mr. Vander Laan voted "yes". The motion was approved.

Mr. Bailey asked if the full Commission will be reviewing the reconsideration letters that are being sent to Mr. Nolan and Mr. Stinziano. Mr. Brachman noted the letters have been given to him for his signature. Mr. Brachman said that he has made a few edits but that the edits do not change the import of the drafts that were reviewed by the Advisory Committee at the last Committee meeting. Mr. Nick said that the letters do not need to be voted on by the Commission since the requests for reconsideration were granted and approved by the full Commission at the last meeting. He also noted that staff made the changes that the Advisory Committee requested.

Mr. Nick asked Ms. King to discuss the status of the formal advisory opinion regarding service on chambers of commerce. Ms. King said that, per the discussion at the last Advisory Committee Meeting, the advisory and educational staff, were working on an information sheet in lieu of an advisory opinion. It was the consensus at the last advisory committee meeting that an information sheet would be the most effective way to communicate guidance on the subject in a concise and uncomplicated manner.

EXECUTIVE DIRECTOR'S REPORT

The Executive Director reviewed the report in the packet, especially the budget information recently submitted on behalf of the Commission. He noted that the administration is currently compiling the reports from all agencies and state boards and commissions. The Administration normally submits the draft budget to the General Assembly after the first of the year when the next session begins.

LEGISLATION UPDATE

Mr. Hood reviewed the legislative report for October with the Commission. He explained that he is tracking several bills pending in the General Assembly that may affect Commission operations. Several of the newer bills have been assigned to committees, however, no hearings have been scheduled to date. Mr. Hood explained to the Commission that if there are any additional bills of interest to them, they can be added to the report for next month.

PUBLIC EDUCATION AND INFORMATION

Ms. Willeke reviewed the report in the packet. She noted that the new webinar license will allow the Education staff to offer an unlimited number of online classes throughout the year. She also informed the members that she has requested approval from the CLE Commission to provide another online Continuing Legal Education class in December as the October online CLE class has reached its capacity of 1,000 registrants and there is a waiting list of nearly 100 public practice attorneys already.

Finally, Ms. Willeke expanded upon her report in the packet regarding the online COGEL conference and indicated that she would help the Commission members register if they are interested. The Chairman asked Ms. Willeke to send information regarding the program to the members prior to the next Commission meeting.

FINANCIAL DISCLOSURE STATISTICS REPORT/COMPLAINT REPORT

Mr. Ring stated that the upcoming general elections means that the candidate filing deadline is October 5 and that he is expecting approximately 30 more filings as a result. He noted that the FDS staff's currently focus is also on the confidential review process, especially for the public school districts. The Chairman inquired if non-compliance has been an issue this year. Mr. Ring and Mr. Nick responded that, considering the number of filers the Commission has, that non-compliance is overall quite low. Mr. Nick also commended Mr. Ring and his staff member, Jen Boger, for their hard work with a substantial workload.

Investigative Attorney Molly Bruns reported on recent prosecutorial action involving a filer. He pled guilty recently to two counts of failure to file for 2015 and 2016. He was fined \$100 for one count and ordered to pay court costs for both counts.

MOTIONS

Complaint Dismissals:

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

Collections:

MOTION by Mr. Vander Laan, seconded by Ms. Rutter, to refer to the Attorney General’s Office for collection the individuals listed in the packet report: Mr. Bailey, Ms. Kelley, Ms. Rutter, Ms. Tracy, Mr. Vander Laan, and Mr. Brachman voted “yes.” The motion was approved.

DATE OF FUTURE MEETING

The Commission set the next meeting for Friday, November 13, 2020 at 11am.

The meeting was adjourned at 1:25 p.m.

These minutes are respectfully submitted by:

/s/ Paul M. Nick

Paul M. Nick
Executive Director