

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

Paul M. Nick
Executive Director



OHIO ETHICS COMMISSION
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OHIO ETHICS COMMISSION
MINUTES OF MEETING
AUGUST 13, 2021

MEMBERS OF THE COMMISSION

Merom Brachman
Elizabeth E. Tracy

Megan C. Kelley
Julie A. Rutter

Bruce Bailey
Mark A. Vander Laan

CALL TO ORDER

The meeting of the Ohio Ethics Commission was called to order at 12:04 p.m. in Meeting Room 2 on the 2nd floor of the William Green Building, at 30 W. Spring Street, in Columbus, Ohio.

ROLL CALL

The following Commission Members were present: Mr. Brachman, Mr. Bailey, Ms. Kelley, Ms. Rutter, Ms. Tracy, and Mr. Vander Laan. Staff present: Executive Director Paul M. Nick; Deputy Director/General Counsel Jed Hood, IT & FD Administrator Brian Ring, Education and Communications Administrator Susan Willeke, HR & Fiscal Manager Alan Carlson, Investigative Attorney Molly Bruns, and Advisory Attorney Chris Woeste. Also present was Assistant Attorney General Patrick Denier.

EXECUTIVE SESSION

MOTION by Mr. Vander Laan, seconded by Ms. Kelley, to go into Executive Session to discuss matters that are statutorily confidential, including pending litigation, updates on investigations, 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 12:05 p.m.

Ms. Rutter left the executive session at 12:05 p.m. and returned at 12:16 p.m.

RETURN TO OPEN SESSION

The Commission returned to open session at 12:30 p.m. The Chairman noted that the Commission has been reviewing issues under the Ohio Ethics Law and related statutes as they pertain to investigations regarding First Energy and its affiliates. Specifically, the Commission is reviewing Ohio Revised Code 102.03(G) regarding campaign finances. He stated that although a draft advisory opinion was listed on the agenda to be discussed, the Commission will not be taking action to review or approve the draft at today's meeting. Instead, the Commission has determined that such further discussions on this matter would be more appropriately addressed during the Commission's confidential procedures.

The Executive Director welcomed the Commission's newest Advisory Attorney, Chris Woeste. Mr. Woeste's first day was July 26 and has already begun to take calls and draft opinions. Chief Advisory Attorney Karen King accepted a position as the Supreme Court's Deputy Recorder; her last day with the Commission was August 8, 2021, though she will be working on contract with the Commission for six weeks. Staff have begun a search for a second Advisory Attorney.

PREVIOUS MEETING MINUTES

The Commission reviewed the draft minutes from the June 16, 2021 Commission meeting.

MOTION by Ms. Tracy, seconded by Ms. Kelley, that the Commission approve the minutes of the June 16, 2021 Commission meeting. Mr. Bailey, Ms. Kelley, Ms. Rutter, Ms. Tracy, Mr. Vander Laan, and Mr. Brachman voted "yes." The motion was approved.

ADVISORY OPINIONS AND STATISTICS

Mr. Nick reviewed the advisory charts included in the packet and noted the high volume of advisory inquiries in recent weeks. In fact, from June 10 through August 4 (39 business days), the advisory section received 234 phone calls and 185 email inquiries. This averages 6 phone calls and 5 email requests per day. He also pointed out that 20 of the opinions summarized in the packet were drafted by Ms. King prior to her departure; the shortest was two pages in length and the longest was seven pages. He stated that staff work hard to draft the opinions in accessible and easy-to-understand language.

The Chairman inquired about major advisory opinions yet to be finished and opined that the Advisory Committee may wish to meet prior to the next Commission meeting. Mr. Nick stated that Ms. King will draft some of those opinions while under contract and will keep in touch with the Advisory Committee.

Upon reviewing the packet in the summary, the Chairman noticed an increase in inquiries regarding township trustees and commended law directors for asking germane questions regarding the application of the Ethics Law to local government officials.

Mr. Nick then opened the discussion regarding the newly created Broadband Expansion Program Authority and the Governor's office inquiry if commission members should file financial disclosure statements and if so, if they should be public or confidential. Mr. Bailey requested additional review from staff of the statute to determine if the new commission would actually have the authority to award public funds or if they would primarily maintain advisory authority. He agrees that filing would be appropriate if the statute grants the new commission authority to award money but requested more research into that question. Mr. Nick stated he would conduct that review and bring his findings to the next Commission meeting.

MOTION by Mr. Vander Laan, seconded by Mr. Bailey, to table the discussion on the Broadband Expansion Program until the next Commission meeting. Mr. Bailey, Ms. Kelley, Ms. Rutter, Ms. Tracy, Mr. Vander Laan, and Mr. Brachman voted "yes." The motion was approved.

EXECUTIVE DIRECTOR'S REPORT

Mr. Nick reviewed the report in the packet, including information regarding COVID, the reopening of the William Green Building, and plans for a hybrid workplan for staff.

Mr. Nick also reviewed his report regarding the *Amicus* brief filed with the Ohio Supreme Court that has been filed in the case of State of Ohio v. Steven Towns. He reported that briefs have been filed and the next step will be to hear back from the courts. Staff will keep the Commission updated.

LEGISLATION UPDATE

Mr. Hood reported on other legislation pending in the General Assembly, including H.B. 286 which would allow a party adversely affected by an agency order to appeal that order in their county of residence rather than Franklin County. Mr. Bailey inquired if that would affect the Ethics Commission's cases and Mr. Hood confirmed that it would. Mr. Hood further stated that the legislation would impact the Attorney General's cases as it would require their staff to travel throughout the entire state for cases. Mr. Brachman asked Assistant Attorney General Patrick Denier if the Attorney General has taken a position on the bill. Mr. Denier stated that although he has not heard an official position, he believes the Attorney General would not be in favor of the legislation.

The Chairman also asked about H.B. 13 which would modify the campaign finance law considering the issues the Commission has reviewed regarding H.B. 6. Mr. Hood is currently uncertain of the impact of H.B. 13 but will closely monitor it and keep the Commission apprised.

PUBLIC EDUCATION AND INFORMATION

Ms. Willeke reviewed the information in the packet and reported a compliment from a reporter at the Columbus Dispatch on the most recent newsletter. The Chairman also commended Ms. Willeke on the article regarding the Commission's discussion on stimulus funds.

Ms. Willeke noted that while she is responsible for the content of the newsletter, credit goes to staff member Nick Rohrbaugh for its visual appeal and professional layout.

FINANCIAL DISCLOSURE STATISTICS REPORT/COMPLAINT REPORT

Mr. Ring reported that all is going well in the financial disclosure section and that there are two upcoming elections. The first is a primary in September with the filing deadline of August 16, 2021 and the general election in November with the filing deadline of October 4, 2021.

MOTIONS

Late Fee Waivers:

MOTION by Ms. Kelley, seconded by Ms. Tracy, 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 Ms. Tracy, seconded by Ms. Kelley, to refer to the Attorney General's Office for collections the individuals listed in the packet report. Mr. Bailey abstained from the vote. 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 Thursday, September 30, 2021 at 12:00 pm (noon) with an Investigative Committee meeting to be held on the same day at 11am. The Advisory Committee Meeting is tentatively scheduled for September 17, 2021 to discuss a draft advisory opinion. Staff will send the draft to the committee members by September 13, 2021; the committee members will then determine if the committee meeting is needed.

The meeting was adjourned at 1:09 p.m.

These minutes are respectfully submitted by:

A handwritten signature in black ink, appearing to read "Paul M. Nick". The signature is fluid and cursive, with a prominent 'P' at the beginning.

Paul M. Nick
Executive Director