

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



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Paul M. Nick
Executive Director

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OHIO ETHICS COMMISSION
MINUTES OF MEETING
MAY 20, 2022

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. in Room 2 on Level 2 of the William Green Building, at 30 West Spring Street, in Columbus, Ohio. The meeting also included teleconference availability as authorized by Sub. HB 51.

ROLL CALL

The following Commission Members were present: Mr. Brachman, Ms. Rutter, Ms. Tracy, and Mr. Vander Laan. The following Commission Members were present on the teleconference call: Mr. Bailey, and Ms. Kelley. Staff present: Executive Director Paul M. Nick, IT & FD Administrator Brian Ring, Deputy Director/General Counsel Jed Hood, HR & Fiscal Manager Alan Carlson, Advisory Attorneys Chris Woeste and Kristin Cly, and Investigative Attorney Nicole Candelora-Norman. Staff present on the teleconference call: 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, 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 12:08 p.m.

The Commission returned to open session at 12:33 p.m. Joining the meeting in Room 2 Level 2 was Assistant Attorney General Hilary Damaser.

PREVIOUS MEETING MINUTES

The Commission reviewed the draft minutes from the April 8, 2022, Commission meeting. The Advisory Committee members reviewed the draft minutes from the May 11, 2022, Advisory Committee Meeting.

MOTION by Mr. Vander Laan, seconded by Ms. Rutter, that the Commission approve the minutes of the April 8, 2022, Commission meeting. Mr. Bailey, Ms. Kelley, Ms. Rutter, Ms. Tracy, Mr. Vander Laan, and Mr. Brachman voted “yes.” The motion was approved.

MOTION by Mr. Bailey, seconded by Ms. Kelley, that the Advisory Committee approve the minutes of the May 11, 2022, Advisory Committee meeting. Mr. Bailey and Ms. Kelley voted “yes.” Ms. Rutter abstained from voting. The motion was approved.

ADVISORY OPINIONS AND STATISTICS

Mr. Nick reviewed the advisory section statistics, noting an increased number of opinions issued to local governments and on the topics of outside employment and nepotism. Mr. Brachman asked questions regarding two entries on the closed opinion list to which Ms. Cly and Mr. Nick responded.

Mr. Nick introduced the Informal and Formal advisory opinion drafts regarding the proposed donations from Harvey Solar I, LLC to Hartford Township and Hartford Village. Mr. Nick then asked Mr. Woeste, as the primary author, to summarize the drafts. Mr. Woeste noted feedback staff received from the Advisory Committee and outside stakeholders in support of the draft advisory opinion. Mr. Brachman commended the staff for the exemplary work put into this matter.

Mr. Bailey stated he supported the outcome of the advisory opinion and recommended it be issued as a Staff opinion because the analysis is within the Commission’s existing precedent. Mr. Bailey noted that he would like Commission staff to prepare a Formal opinion distinguishing between payments and donations to a public agency. Mr. Brachman suggested the Harvey Solar opinion be issued as an Informal advisory opinion because it is necessary to provide guidance beyond that specifically applicable to Hartford Township and Hartford Village.

Mr. Woeste commented that because the Commission has not considered all the applicable statutes in the Harvey Solar matter in prior precedent, it would be difficult to issue as a Staff opinion. Mr. Vander Laan suggested that the Commission issue the Harvey Solar opinion as an Informal and begin work on the Formal opinion suggested by Mr. Bailey. Mr. Nick noted that if the Harvey Solar opinion was issued as an Informal, as opposed to a Staff opinion, it would be available on the Commission’s website, which would be more accommodating to the public considering the interest the matter garnered during the drafting process.

Mr. Brachman asked if there were sufficient constraints on accepting donations to protect the public. Mr. Woeste noted that the language contained on page five of the Formal draft opinion included five such factors. Mr. Nick stated that this language from the Formal draft could replace the language that is currently on the bottom of page seven of the Informal draft opinion. Mr. Bailey stated he believed that this language went too far, adding he did not think it was the Commission’s job to moralize.

MOTION by Mr. Bailey to adopt the Informal draft, as presented to the Commission but adding an endnote to signal the Commission’s intention to consider the difference between payments and donations to public agencies in a future advisory opinion. The motion died for lack of a second.

MOTION by Mr. Vander Laan, seconded by Ms. Kelley, to adopt the Informal Advisory Opinion but substitute the stronger guidance that appeared on page five of the Formal draft and adding an endnote signaling the Commission’s intention to consider the difference between payments and donations to public agencies in a future advisory opinion. Mr. Bailey, Mr. Brachman, Ms. Tracy, Ms. Kelley, and Mr. Vander

Laan voted “yes.” The motion was approved. Ms. Rutter abstained from voting. Mr. Brachman directed staff to circulate the final language to the Advisory Committee prior to distributing the opinion.

Mr. Nick stated that during the Advisory Committee meeting on May 11, the Committee asked for guidance on whether draft advisory opinions that staff circulate to Commissioners are a public record or are subject to an exception to the Public Record Law. Mr. Nick stated that, based upon his research and discussion with Assistant Attorney General, Hilary Damaser, it seems clear that these drafts are a public record and no exception would apply. Ms. Damaser confirmed this research.

Mr. Nick introduced the topic of seeking and allowing more public input in the advisory process and at Commission meetings. Mr. Brachman noted that over the years, the Commission has invited those requesting opinions to address the commissioners during a regular meeting. Mr. Bailey agreed that public input is vital to the Commission’s decisions and should be solicited when possible, noting that it was helpful in drafting the Informal opinion adopted today by the Commission. Mr. Nick added that advisory staff solicits inputs from requesters and stakeholders more than they had done in years past.

EXECUTIVE DIRECTOR’S REPORT

Mr. Nick noted that his report was in the packet, and asked if any Commissioners had any questions; hearing none, the Commission moved on to the next item on the agenda.

LEGISLATION UPDATE

Mr. Hood reviewed the Legislation Report as seen in the packet noting nothing new has been added. He added that the Bill that allows public meetings to be held virtually or telephonically, expires on June 30, 2022.

PUBLIC EDUCATION AND INFORMATION

In Ms. Willeke’s absence, Mr. Nick reviewed the Public Information report as shown in the packet.

FINANCIAL DISCLOSURE STATISTICS REPORT/COMPLAINT REPORT

Mr. Ring reviewed the Financial Disclosure statistics as shown in the packet, noting that so far, over 95% of filers are using the online portal.

DATE OF FUTURE MEETINGS

The Commission set the next meeting for Wednesday, June 29, 2022, at 1:30 pm.

MOTIONS

Late Fee Waivers:

MOTION by Ms. Tracy, seconded by Ms. Rutter, 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.

The meeting was adjourned at 1:41 p.m.

These minutes are respectfully submitted by:

A handwritten signature in black ink, appearing to read "Paul M. Nick", is written over a light gray, textured rectangular background.

Paul M. Nick
Executive Director