**Vermont State Ethics Commission**

 **6 Baldwin St. Rm. 315, Montpelier, VT**

**May 1, 2019 Meeting Minutes (approved)**

Present: Commission Members: Julie Hulburd, Christopher Davis, Paul Erlbaum, Michele Eid, and Executive Director: Larry Novins.

1. Call to Order: The meeting was called to order by Commission Chair Julie Hulburd at 10:03 a.m. Present also were Commissioner members: Christopher Davis, Paul Erlbaum, Michele Eid, and Executive Director Larry Novins. Commissioner Sarah Biolsi Vangel joined the meeting by telephone at 10:32 a.m.

2. Minutes: The minutes of the April 3, 2019 meeting were approved, motion by Paul Erlbaum, second by Christopher Davis.

3. Municipal Complaints Update: Jenny Prosser, General Counsel for Vermont Secretary of State reviewed how she handles municipal complaints. The Secretary of State’s Office receives approximately 1,200 call per year about municipal matters. About 10 per cent of those are related to ethics or ethics related matters, including municipal officials’ conflicts of interest, self-dealing, and legal questions. One of the interesting factors in evaluating conduct of municipal officials is that each town may have its own procedures, rules, or processes. Determining what is acceptable or not can require enormous effort. Since the Secretary of State’s Office has no authority to resolve complaints, the complaints may up being referred to the very people complained about. Under Act 79 the Secretary of State’s obligation to receive municipal complaints will end in December, 2020. There is currently no provision regarding municipal complaints after that time.

4. Public Comment. None

5. Website: Chair Hulburd described up-coming changes to the website including the addition of an ethics video. The Commission authorized her to finish work with the web designers so that the changes can go on line in the near future.

6. General Principles: The Commission reviewed the General principles and concluded that the December, 2018 enactments regarding Contractor Contribution Restrictions in 17 V.S.A. § 2950 do not require changes to the language of a section 3. Executive Director Novins will undertake a non-substantive revision of the General Principles to eliminate, where possible, grammatical and usage problems and to make the language used more clear and concise.

7. Operating Procedures: The Commission further discussed Advisory Opinions and the policy reasons and legislative history helpful to understanding when they should be issued. Executive Director Novins described how requests from third parties seeking Advisory Opinions regarding the conduct of government officials would work. Even with a more open process, significant problems remain. An Advisory Opinion request would require the Executive Director to take at face value any facts set forth in the request. If the person whose conduct is questioned is given notice of the request, that person has two choices: to ignore the request and be considered to have waived any role in the Opinion, or to respond to the request and submit whatever information he or she feels is necessary for the opinion. A government official becomes, in effect, an involuntary “respondent.” Nothing in the legislative history of Act 79 indicates any legislative intent to create such a scenario. It is inconsistent with the very term “Advisory Opinion.” For that reason as well as the reasons discussed in the April 3, 2019 meeting, the Commission voted (motion by Christopher Davis, second by Paul Erlbaum voted to adopt the language drafted by Executive Director Novins amending the Commission’s Policy on Advisory Opinions. Under the new policy Advisory Opinions may be requested by state officers or employees regarding their own on-going or prospective conduct. The Executive Director may, without a request, issue an Advisory Opinion to address issues brought to the Commission in requests for guidance or other matters of general interest. Advisory Opinions will not contain any individual’s personal identifying information. Also added are new provisions 1) that in preparing an Advisory Opinion the Executive Director may provide public notice of the consideration of an Advisory Opinion so that affected persons can provide information relevant to the subject and 2) clarification that the Executive Director may at any time determine that a requested advisory opinion should not be issued.

8. Executive Director Report.

 a. Larry Novins reported about the required sexual harassment training all state employees are required to take, a recent cable television one-hour interview he gave to Pat McCormack of Vote for Vermont. The interview will be available soon on the internet.

 b. Novins will be one of four panelists discussing Ethics for Government Lawyers at a June, 2019 event sponsored by the Attorney General’s Office. He will speak with the Defender General to see if they would like a presentation about the Ethics Commission as part of their June training.

 c. Future legislation. Novins updated the Commission about possible future legislation including S.157. He is currently doing a review of the ethics statutes and rules of other jurisdictions. The goal: that the Commission may recommend adoption of provisions used in other states which may fit well with what the Commission may be called upon to do in the future. He will report at the next meeting about some of the provisions he found to be of interest.

 d. Novins reported about what he is doing to complete the change of the Commission’s mailing address.

 e. Office furniture. Novins reported on the proposal received to acquire a workable conference table and chairs. The Commission authorized him to order them.

 f. Information requests. Novins noted that he has received more than one inquiry from organizations regarding legislators’ travel and related expenses for attendance at events sponsored by those organizations. One is known to be a 503(c)(4) group. Novins spoke about the ethical questions implicated and how the topic is currently addressed by law and rules.

9. Executive Session to Discuss Complaints and Guidance Requests: Executive Session, confidential. 3 V.S.A. §§ 1221(d), 1223(c), 1225(a)(3). Motion by Paul Erlbaum second by Michele Eid, passed. Motion to end executive session by Michele Eid, second by Christopher Davis, passed.

10. Other business: The Commission will not vary from the normal meeting time for the July meeting. Commissioners discussed what, if any, limitations they should observe regarding contact with legislators. Novins will consult with T.J. Jones about this.

11. Adjournment: Michele Eid moved to adjourn, second by Paul Erlbaum. The meeting adjourned at 12:27 p.m. The Commission’s next meeting is scheduled for June 5, 2019.