

Tennessee Ethics Commission
April 22, 2008
Minutes

The Tennessee Ethics Commission met on Tuesday, April 22, 2008, at 8:30 a.m. at the State Library and Archives. Commissioners Hall, Knight, Brown, Purser, Neal, and Garland were present. Chairman Hall called the meeting to order at 8:30 a.m.

Rule Making Hearing

Hearing on proposed rulemaking hearing rules, 0590-1-5, pertaining to prohibited activities called to order by Chairman Hall. Assistant Counsel Fort discussed public comments concerning prohibited activities. A sign in sheet was provided for members of the public, and public comment was encouraged to remain under five (5) minutes. No one from the public commented. Assistant Counsel Fort also stated written comments in the form of email, letter, or fax must be received within ten (10) days by the Commission, and will be sent to the Attorney General for review if appropriate.

REGULAR AGENDA

Chairman Hall suggested deferring the approval of February and March minutes until after Old Business to allow time for other matters and the show cause hearings. There was no objection.

OLD BUSINESS

Commission Financial Statement

Director Androphy presented a financial statement based upon the February 2008 financial report provided by the Secretary of State's Office, with adjustments to reflect revenue received by the Commission since April 4, 2008. Commissioner Neal placed 7 or 8 questions to categories in the statement into the record. Commissioner Neal requested that the categories provided by the Secretary of State be broken down to ensure transparency for the public. Commissioner Neal also requested that income and expenses be aligned to ensure ease of comprehension and transparency. After discussion, Commissioner Knight motioned to post on the Commission's website the names of six (6) lobbyists delinquent in paying for training. Commissioner Neal seconded the motion. Following discussion Commissioner Knight withdrew her motion. Commissioner Hall moved to allow time for Counsel Himmelreich to research options regarding collection of fees. Commissioner Knight seconded. The motion passed unanimously, 6-0.

Financial Enhancement Request for Additional Staff Position

Director Androphy discussed the need for an additional compliance officer position, and proposed submitting a budget enhancement request to hire Joshua Alexander. Commissioner Purser moved to approve the proposal. Commissioner Garland seconded the motion. Following discussion of hiring procedures, the motion passed by a vote of 4-2; Commissioners Neal and Knight voted no.

Advisory Opinion 08-01 (David Shepard)

Commissioner Hall stated the draft opinion was finalized and hand delivered. Director Androphy stated that an agreement on stylistic edits had been reached. No vote was taken.

Advisory Opinion 07-08 (Gerry Boaz, Association of Government Association)

Commissioner Neal made clarifications as to votes previously taken on this matter. Following discussion, Commissioner Knight moved to adopt her version of 07-08, excluding the first half of Question 6 and the last half of Question 9. Following discussion, Commissioner Brown seconded the motion. Following discussion, the motion failed by a vote of 3-3; Commissioners Brown, Neal and Knight voted aye. Commissioners Purser, Hall, and Garland voted no. Commissioner Knight then suggested a friendly amendment to the staff draft excluding Questions 6 and 9 and verbally stated a number of edits. Commissioner Neal seconded the motion. Following discussion, the motion failed by a vote of 2-4; Commissioners Neal and Knight voted aye. Commissioners Brown, Garland, Hall, and Purser voted no.

Commissioner Hall moved to adopt the staff version with the exception of Questions 6 and 9. Commissioner Purser seconded the motion. The motion passed unanimously, with Commissioners Neal and Knight concurring in result only.

Advisory Opinion 07-03 (Marylee Booth, TOMA)

Commissioner Hall introduced lobbyists Courtney Peare and Mark Greene from the audience for comments. Both asked the Commission to adopt the original opinion. Following discussion, Commissioner Knight moved to adopt opinion 07-03 as originally published. Commissioner Neal seconded the motion. Commissioner Purser clarified that the motion approved the original Advisory Opinion stating that a member of a PAC who is also a lobbyist may sign checks while acting as the treasurer for that PAC. The motion passed by a vote of 4-2; Commissioners Brown, Hall, Neal, and Knight voted aye. Commissioners Garland and Purser voted no.

NEW BUSINESS*Informal Show Cause Proceedings*

Commissioner Hall began the Show Cause proceedings for employers of lobbyists that did not timely file November Lobbying Expenditure reports. Following introductory statements by Director Androphy outlining violators, laws, and applicable fines, Commissioner Brown moved to accept staff recommendation to impose the maximum penalty of seven hundred and fifty (\$750.00) dollars against MMSL, Inc., Shawntech Communications, and Southern Four Wheel Drive Association. These three were in the first of three categories: those that did not file. Commissioner Purser seconded the motion. The motion passed unanimously with a vote of 6-0.

The second category of those who filed with no explanation was discussed. Scott Collins, on behalf of Clay Enterprises, Stewart Clifton, on behalf of TN Citizen Action, and Carrie Ermshar, on behalf of TN Association of Homes and Services for the Aging were recognized and commented on their respective violation. Following discussion pertaining to fine amount, Commissioner Neal moved for staff should come back to the Commission with citations to the law to help determine what "good cause" is. Commissioner Brown seconded the motion. The motion passed unanimously with a vote of 6-0.

OLD BUSINESS continued*Advisory Opinion 08-06 (Senators Jackson and Todd)*

Following discussion pertaining to the procedure of requesting an Advisory Opinion, Commissioner Knight moved that the Commission interpret the section of the Tennessee Code Annotated § 3-6-107 and §3-6-308 to mean that Advisory Opinion requests must come from a person affected by the Advisory Opinion. Commissioner Hall seconded the motion. Following discussion, Commissioner Hall withdrew his second, and Commissioner Knight withdrew her motion.

ACTION ITEMS

Director Androphy discussed scheduling lobbyist training, video capabilities, and potential training locations for 2008. Director Androphy discussed the one hundred and seventy five (175) local filers delinquent in submitting their January 31st conflict of interest report. Following discussion of how to proceed, no vote or action was taken.

The next meeting is scheduled for May 27th, 2008 at the Tennessee State Library and Archives.

The meeting adjourned at 12:42 P.M.