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Advisory Committee Minutes

Friday May 8, 2020

Present:

Bruce Bailey, Megan Kelley, Julie Rutter, Commission Members

John Rawski, Staff Attorney
Karen King, Chief Advisory Attorney
Tim Gates, Staff Attorney
Jed Hood, General Counsel
Paul Nick, Executive Director

The meeting began at 11:17 a.m. by teleconference.

Mr. Bailey left the meeting around 11:28 a.m.

Ms. King began the discussion by reviewing the Advisory Committee's consideration of an opinion request from John Greenhalge, Executive Director of the State Board of Registration for Professional Engineers and Surveyors (Board). Ms. King noted that at the March 31, 2020 Advisory Committee Meeting, the Committee members directed staff to seek additional information from Mr. Greenhalge. Staff forwarded Mr. Greenhalge's first email and staff's memo summarizing the email to the Committee members. Mr. Bailey and Ms. Kelley had additional questions and staff emailed Mr. Greenhalge again for clarification regarding his specific question. Staff's email correspondence with Mr. Greenhalge and a memo summarizing this most recent correspondence was included in the packet of materials provided to the Committee for the May 8, 2020 meeting.

Mr. Bailey had submitted his comments regarding Mr. Greenhalge's responses prior to the meeting. Ms. King reviewed Mr. Bailey's comments and a phone conversation she had with Mr. Bailey prior to the meeting. In his comments, Mr. Bailey noted that Mr. Greenhalge's most recent email clarified and limited the issues considerably. Mr. Bailey stated that the sole issue Mr. Greenhalge raises is whether county engineers can delegate or cede their authority to another person for county projects in which they have a conflict. Mr. Bailey stated that the Ethics Commission does not have the jurisdiction or authority to answer this question. Ms. King said that she agreed with Mr. Bailey's conclusion. She stated that she and Mr. Bailey had also agreed that staff could write a letter to Mr. Greenhalge explaining that the Commission does not have jurisdiction over his specific question and referring him to another legal authority, such as the County Prosecutor, to determine if there are any current laws or rules, outside of the Ethics Law, that allow county engineers to delegate their authority when they have a conflict. She said that

Mr. Bailey had also suggested that staff point out in the letter that there are statutes that allow other county officers to appoint someone to act on their behalf in certain situations, similar to R.C. 313.04 for county coroners. Mr. Bailey had suggested that the Board may want or need to seek a similar legislative solution for county engineers.

Ms. King asked the Committee members if they agreed with this analysis and resolution. Ms. Rutter and Ms. Kelley said that they agreed. Mr. Bailey had left the meeting by this time.

Next, Ms. King began the discussion on the Commission's precedent regarding public officials serving with chambers of commerce. Mr. Bailey had submitted his comments on this issue prior to the meeting. Ms. King reviewed Mr. Bailey's comments and a phone conversation she had with Mr. Bailey prior to the meeting. In his comments, Mr. Bailey suggested that in order to provide clarity and consistency on the issue, staff and the advisory committee should work on a formal advisory opinion. The formal opinion would address two main issues: 1) can public officials serve with chambers of commerce and 2) what are the limits on their service. Ms. King noted that most requests on this issue come from mayors and council members so the formal opinion could look at their service with chambers of commerce as regular employees, board members, and in other fiduciary positions, such as executive directors. Mr. Bailey had also suggested that staff contact the Ohio Chamber of Commerce to see if they have any substantive information they would like to contribute.

Mr. Gates reviewed his memo summarizing the Commission's precedent on the issue, which was included in the packet.

Ms. King asked the Advisory Committee members if they agreed that a formal opinion should be written on this subject. Ms. Rutter and Ms. Kelley said that they agreed. Ms. King stated that staff would begin working on the draft.

The meeting was adjourned at 11:40 a.m.