

Georgia Government Transparency and Campaign Finance Commission

200 Piedmont Avenue | Suite 1402, West Tower | Atlanta, Georgia 30334
404-463-1980 | www.ethics.georgia.gov

Teleconference Meeting | Tuesday, May 3, 2011 | 11:00 AM

Location: 200 Piedmont Avenue, Suite 1402 – West Tower
Atlanta, GA 30334

Commission Meeting Minutes

PRESENT:

Commission Members:

Patrick Millsaps, Commission Chairman (via conference call)
Josh Belinfante Commission Vice Chairman
Hillary Stringfellow, Commission Member (via conference call)
Kevin Abernethy, Commission Member
Kent Alexander, Commission Member

Campaign Finance Commission Staff Present:

Stacey Kalberman, Executive Secretary
Sherilyn Streicker, Deputy Executive Secretary

Office of the Attorney General Staff Present:

Meron Dagneu, Assistant Attorney General

OPENING COMMENTS BY THE CHAIRMAN:

Vice Chairman Belinfante called the meeting to order at 11:08 AM.

- Vice Chairman Belinfante identified the following Commission members on the conference line:
 - Chairman Millsaps
 - Commissioner Stringfellow

APPROVAL OF MEETING MINUTES:

Approval of the March 1, 2011 Commission Meeting minutes.

Moved to approve: Kent Alexander Seconded: Hillary Stringfellow

Carried: 5 - 0

Georgia Government Transparency and Campaign Finance Commission

200 Piedmont Avenue | Suite 1402, West Tower | Atlanta, Georgia 30334
404-463-1980 | www.ethics.georgia.gov

Approval of the April 5, 2011 Commission Meeting minutes.

Commissioner Alexander and Vice Chairman Belinfante requested two corrections to the statements made on Advisory Opinion 2011-03.

Moved to approve amended minutes: Kevin Abernethy Seconded: Hillary Stringfellow
Carried: 5 - 0

STATE OF THE CAMPAIGN FINANCE COMMISSION

Stacey Kalberman, Executive Secretary, presented a State of the Campaign Finance Commission to the Commission (Exhibit A).

The Executive Secretary highlighted the accomplishments of the Commission staff in the past year and goals for the coming fiscal year.

Accomplishments:

- The Commission, specifically the Education and Information Division, has taken over the responsibilities of 881 local filing officers. There are no longer local filing officers and all public officials must file directly with the Commission. The Commission staff has been working with the local filing officers to educate them on the transition process. The staff has manually entered over 4,000 new filers into the Commission's web based system.
- The Education and Information Division conducted 62 training workshops for over 1,200 participants.
- The Education and Information Division produced new online videos and PowerPoint presentations for the website.
- The Technology Division created multiple new programming applications to allow the Commission to comply with HB 17. For example, the Technology Division created systems to: apply and track lobbyist late fees, collect lobbyist fees, applications for qualification officers, applications for state business transaction report, and development of a new website to assist the public in understanding the law.
- The Legal Division cleaned up much of the case load from past years and has made great headway on the 68 cases filed in 2010.
- The Legal Division continued to investigate and worked on several complex cases from 2009 and 2010.
- The Legal Division played a large part in developing the Commission's new website.
- The Legal Division continues to post updates to public on changes in the law.

Goals for the coming fiscal year:

- Continue the Commission's education outreach through classes and the addition of on-line classes.
- Obtain space to setup a computer lab to do hands on filing training.
- Continue working on the website.
- Put all forms in electronic format.
- Continue to work on several complex cases.
- Process all 2010 cases by end of the calendar year.

Georgia Government Transparency and Campaign Finance Commission

200 Piedmont Avenue | Suite 1402, West Tower | Atlanta, Georgia 30334
404-463-1980 | www.ethics.georgia.gov

- Work on recommendations to changes to the Act.

Commission Alexander expressed his appreciation for the “great work” done by the staff under “difficult circumstances”.

REVIEW OF COMMISSION BUDGET

Presented by: Stacey Kalberman, Executive Secretary

The Commission has incurred an 8% budget cut for the coming fiscal year. The Commission’s budget has been reduced by 42% since 2008.

The Commission staff’s workload has increased due to the Commission staff taking over the work load of 881 filing officers throughout the state and additional changes to the Act that were part of the laws passed during the 2011 legislative session.

The two main laws that passed that will affect the Commission budget are:

1. Local filers are now allowed to file by paper, with the passage of HB 232, as opposed to being required to file electronically as they were required in the passage of HB 17. The Commission has already received approximately 500 paper filings.
2. Requirement that the Commission use US Registered Mail which will be a much greater expense than electronic registered mail currently in place

The Commission’s 2012 budget includes a 5% increase in healthcare benefits. Last fiscal year health benefits were 42% and this coming fiscal year they have increased to 47%.

- \$1,084,145.00 = Budget for Fiscal Year 2012
- \$915,273.00 = Personnel Services for 10 employees, fixed costs.
- \$25,000.00 = Operating Expenses. This Includes postage, supplies and materials, repairs/maintenance, contents insurance, travel, membership dues, court costs and costs if Commission took a case to OSAH. Stacey Kalberman commented that this amount is a very thin budget for all of the Commissions expenses.
- \$6,000.00 = Equipment. IT Equipment and maintenance contracts.
- \$73,690.00 = Rent.
- \$38,000.00 = Voice/Data Communications fixed costs from the Georgia Technology Authority.
- \$4,000.00 = Contractual Services. The Commission is working on a Work Study Program the local colleges to obtain some part time assistance.
- \$22,000.00 minus 2% surplus left which is recommended.

Included in the \$25,000 Operating Expenses is mailing costs. The Commission, by law, must send via certified mail notices to local officials regarding late fees and late filings. Complaint letters also must be sent via certified mail.

Georgia Government Transparency and Campaign Finance Commission

200 Piedmont Avenue | Suite 1402, West Tower | Atlanta, Georgia 30334
404-463-1980 | www.ethics.georgia.gov

In preparation for the requirement to send notices via certified mail the Commission had per purchased 25,000 units from a registered e-mail service at the cost of \$8,000 to send out notices with electronic certified mail attachment. The cost to use non electronic means for the same volume will cost the Commission approximately \$120,000. Stacey Kalberman commented that the Commission is hopeful that it will not have 25,000 notices to send out. However, the Commission will need supplemental funds to pay for the cost of the new mailing requirements.

REVIEW OF COMMISSION HANDLING OF PAPER FILINGS

Presented by: Stacey Kalberman

- The Commission has already received between 400 and 500 paper filings.
- This is a non election year for most filers; mainly mayors are in an election year now.
- The Commission is not manually entering all the data from the paper fillings. The Commission staff is “checking in” the paper filling. This tells that system that the filing has been received so the filer will not incur late fees from the system.
- If anyone would like to see the filings they will have to come to the Commission office in Atlanta for they are no longer maintained at the local level. If someone requests copies they will be charged for the copies and the time for the staff to retrieve them.
- Reports filed electronically go immediately onto the system for immediate disclosure.
- The Commission does not have the staff to manually enter in all of the paper filings.
- It is Ms. Kalberman’s opinion that this situation defeats one of the goals of the law from 2010 [HB 17 which required local level filers to file electronically] which was to have immediately disclosure of campaign contribution reports as well as financial disclosures.

Commissioner Alexander stated that perhaps this situation is something for the legislature to address next year.

Commissioner Abernethy questioned that under the current budget the Commission has enough funds to cover approximately a third of the mailing costs? Ms. Kalberman indicated that there would probably not be enough funds to cover a third of the mailing costs. She estimated that from the operating expenses portion of the budget there might be only \$5,000 to \$7,000 available for mail costs, before the Commission would need to use its 2% surplus.

Stacey Kalberman stated that the she is considering pre-purchasing mailings should there be available funds left in the current budget. However, in next year’s budget, due to the additional 8% budget cut and no additional funding being given to the Commission for the mailing costs the amount of money available for mailing costs would be about \$5,000. Using Click2Mail \$5,000 would purchase approximately 1,000 certified return receipt mailings.

Georgia Government Transparency and Campaign Finance Commission

200 Piedmont Avenue | Suite 1402, West Tower | Atlanta, Georgia 30334
404-463-1980 | www.ethics.georgia.gov

In preparation for the requirement to send notices via certified mail the Commission had per purchased 25,000 units from a registered e-mail service at the cost of \$8,000 to send out notices with electronic certified mail attachment. The cost to use non electronic means for the same volume will cost the Commission approximately \$120,000. Stacey Kalberman commented that the Commission is hopeful that it will not have 25,000 notices to send out. However, the Commission will need supplemental funds to pay for the cost of the new mailing requirements.

REVIEW OF COMMISSION HANDLING OF PAPER FILINGS

Presented by: Stacey Kalberman

- The Commission has already received between 400 and 500 paper filings.
- This is a non election year for most filers; mainly mayors are in an election year now.
- The Commission is not manually entering all the data from the paper fillings. The Commission staff is “checking in” the paper filling. This tells that system that the filing has been received so the filer will not incur late fees from the system.
- If anyone would like to see the filings they will have to come to the Commission office in Atlanta for they are no longer maintained at the local level. If someone requests copies they will be charged for the copies and the time for the staff to retrieve them.
- Reports filed electronically go immediately onto the system for immediate disclosure.
- The Commission does not have the staff to manually enter in all of the paper filings.
- It is Ms. Kalberman’s opinion that this situation defeats one of the goals of the law from 2010 [HB 17 which required local level filers to file electronically] which was to have immediately disclosure of campaign contribution reports as well as financial disclosures.

Commissioner Alexander stated that perhaps this situation is something for the legislator to address next year.

Commissioner Abernethy questioned that under the current budget the Commission has enough funds to cover approximately a third of the mailing costs? Ms. Kalberman indicated that there would probably not be enough funds to cover a third of the mailing costs. She estimated that from the operating expenses portion of the budget there might be only \$5,000 to \$7,000 available for mail costs, before the Commission would need to use its 2% surplus.

Stacey Kalberman stated that the she is considering pre-purchasing mailings should there be available funds left in the current budget. However, in next year’s budget, due to the additional 8% budget cut and no additional funding being given to the Commission for the mailing costs the amount of money available for mailing costs would be about \$5,000. Using Click2Mail \$5,000 would purchase approximately 1,000 certified return receipt mailings.

Georgia Government Transparency and Campaign Finance Commission

200 Piedmont Avenue | Suite 1402, West Tower | Atlanta, Georgia 30334
404-463-1980 | www.ethics.georgia.gov

Commission Alexander stated that this is basically an unfunded mandate and asked what is the proposal for handling the mandate. Stacey Kalberman responded with this situation is something she wanted to discuss with the Commission regarding what choices need to be made and how to move forward.

Vice Chairman Belinfante questioned if the budget allowed for the fees the Commission is permitted to keep. Stacey Kalberman responded that the Commission is permitted to keep \$25 for each late fee under the law. However, that is only after the Commission actually collects the late fee. Therefore, those potential amounts are not included in the budget figures. The Commission has approximately only a 50% collection rate on late fees. Vice Chairman Belinfante stated that it was wise to not include potential late fee collections in the budget until it is confirmed that the late fees are actually collected.

Vice Chairman Belinfante questioned the collection rate of late fees. Stacey Kalberman responded that the late fee collection rate was approximately 50% to 60%. The real problem is that many of the late fees are small. The only way to collect a fee if someone refuses to pay is to ask the Attorney General's office to file an enforcement action in Superior Court. The court costs alone do not generally cover the costs of the collection. Also, the Commission staff would rather seek the Attorney General's assistance in more important matters than to spend their time collecting \$100 to \$200 dollars fees.

Meron Dagnew, Assistant Attorney General, commented that even on cases that have successfully gone through Superior court and obtained a judgment the amounts owed were still not paid. Now the Attorney General's office has to figure how to collect even with the judgment.

Vice Chairman Belinfante question Meron Dagnew as to whether or not the Commission has to pay the Attorney General for their time. Meron Dagnew responded no, unless it is an insured case. Stacey Kalberman stated that the Commission does have to pay Fulton County Superior Court fees which consume the amount of the late fee.

UNFUNDED MANDATES OF THE COMMISSION

Commissioner Abernethy questioned, other than the certified mailing requirements, what other unfunded mandates is the Commission facing. Stacey Kalberman expressed concern that the Commission could not comply, in the manner that was intended, with the disclosure requirements of the Act by receiving paper filings. If the Commission was given additional funds to hire staff to manually enter the data from the paper filings the information could be properly disclosed. . However, the Commission does not have the staff to enter the campaign and financial disclosure report submitted to the Commission by paper.

Commissioner Alexander requested clarification regarding "manually enter". Did that mean scanning or data entry? Stacey Kalberman responded data input. Regarding scanning, the Commission does not have the updated scanning equipment to handle the volume of paper filings. If the paper filings were scanned they would be maintained in a separate section of our system. They would be incorporated into the system nor have the search functionality as reports that are electronically filed. The search functionality is what people greatly appreciate about our website. For example, one could look up all the candidates in a certain area or how much

Georgia Government Transparency and Campaign Finance Commission

200 Piedmont Avenue | Suite 1402, West Tower | Atlanta, Georgia 30334
404-463-1980 | www.ethics.georgia.gov

money was made by a particular individual. This type of data from paper reports would not be included from scanned reports.

Vice Chairman Belinfante questioned whether the staff could include an internship or unpaid program to obtain help for the agency. Sherilyn Streicker, Deputy Executive Secretary, stated that an unpaid summer law clerk was beginning in late May. Commission staff is also currently working with a local college on a work/study program. The Commission would pay a reduced hourly fee and that individual would do administrative work. Stacey Kalberman added that Commission is looking to find one to two work/study individuals with one possibly to assist with auditing. The cost for these individuals would come from the \$4,000 allotted in the budget in work/study under personnel services.

Stacey Kalberman mentioned that the Commission is also required, under the Act, to review every filing received. The Commission is expected to receive approximately 68,000 filings this year. The staff is currently looking into the ability to do electronic auditing via software. In 2008, the Commission had two auditors and three examiners.

Commission Alexander expressed concern that the legislator has handed down mandates that the Commission cannot fulfill.

Chairman Millsaps questioned Meron Dagnew, of the Attorney General's office, that if the Commission runs out of money for its operating expenses and is unable to perform a mandated action, is the Commission exposed to a mandamus action/legal exposure? Meron Dagnew responded that she would research the issues. Chairman Millsaps questioned if lack of funds would be a valid defense to a mandamus action. Meron Dagnew responded that she believed it would [be a valid response]. She has seen it from a local level where a county was unable to meet its requirements based on its budget.

Commissioner Alexander requested that Meron Dagnew report back to the Commission regarding a mandamus action in preparation for such becoming an issue in the coming year.

Vice Chairman Belinfante requested that the Commission post on the website the number of paper filings received by the Commission and how many late notices are being sent out by certified mail.

ADVISORY OPINIONS

Advisory Opinion C.F.C. 2011-04

- Question of hypothetical situation submitted by Representative Bobby Franklin on February 22, 2011
- Whether an individual who identifies herself as representing a non-profit organization is lobbying by appearing to testify before a House Committee if such person is not compensated and she does not make any expenditures.
- Presented by: Stacey Kalberman, Executive Secretary

Georgia Government Transparency and Campaign Finance Commission

200 Piedmont Avenue | Suite 1402, West Tower | Atlanta, Georgia 30334
404-463-1980 | www.ethics.georgia.gov

Conclusion of the Commission Staff:

With the understanding that the question is referring to a state level lobbyist, it is the belief of the Commission staff that the answer to Mr. Franklin's question is "no", the individual would not need to register as a lobbyist in Georgia. In brief, the Act states a lobbyist must be compensated or make expenditures of more than \$1,000 in a calendar year. The person in the hypothetical situation does not meet these requirements. Also, ten percent lobbying activity threshold, included in the definition of lobbyist does not need to be addressed because the individual in the hypothetical does not qualify as conducting lobbying activities.

Motion to adopt Advisory Opinion C.F.C. 2011-04

Motion made by: *Kevin Abernethy*

Seconded by: *Kent Alexander*

Carried 5-0

OPEN CASE STATUS

Status of:

In the Matter of State Mutual Insurance Company (2009-0024PC)

In the Matter of Admiral Life Insurance Company of American (2009-0025PC)

Vice Chairman Belinfante recused himself from the matter and requested that Commissioner Alexander preside of this matter.

The Attorney Daniel Meachum filed an Amended Notice of filing of Order on Motion to Sever from Georgia Government Transparency and Campaign Finance Commission with the court. The notice is essentially the Commission's order to Sever. It is the Commission staff's belief that Mr. Meachum is making the court aware of the matter. However, the Commission is uncertain of what action Mr. Meechum is requesting of the court. The Commission is unsure what action the court will take, whether a hearing date will be set or if one has been requested. It appears that the court has simply been put on notice of the Commission's Notice to Sever. There is no action item for the Commission at this time.

Commissioner Abernethy questioned whether the Commission staff has received any status reports or letters from legal counsel on either side regarding this matter. Stacey Kalberman responded that only the Amended Notice has been received.

OTHER BUSINESS

Status presentation of website update project

Sherilyn Streicker, Deputy Executive Secretary, gave a demo presentation to the Commission of the new, in progress, Commission website.

- The goal of the new website is to make it more user friendly by reorganizing the material by type of filer.
- The new website utilizes free blog based software.

Georgia Government Transparency and Campaign Finance Commission

200 Piedmont Avenue | Suite 1402, West Tower | Atlanta, Georgia 30334
404-463-1980 | www.ethics.georgia.gov

- All work on the website has been done in house by Sherilyn Streicker and Chris Harden, the Commission's web designer, with input from Stacey Kalberman.

Amnesty Program

Stacey Kalberman presented a suggested amnesty program, for current public officers, for review and consideration by the Commission. The program would give amnesty from fines for those who have not previously been complying with the act by not filing all or any of the required reports.

- It will be looked at on a case by case basis.
- If the Commission staff believes that the individual was improperly served by their local filing offers or simply did not file their reports due to a misunderstanding of the law the Commission would like to:
 - Offer them this one chance to file with the Commission, electronically, all previous reports for the past three years to current
 - Offer amnesty for fines that they might incur for failure to file over the last three years
- This is an effort to get the local filers onto the Commission's systems, teach them to file and understand when reports are due and for the Commission act as a responsible filing officer.
- There are many counties and cities in the state of Georgia that have never filed reports.
- This would give these filers a fresh start and allow them to file without the fear of reprisal, the assessment of fines for past filings, for their past failures.

Vice Chairman Belinfante questioned what is the Commission's authority to waive late fees. Stacey Kalberman responded that the fees are mandate by statute, but the Commission has discretion on what cases it brings.

The Commission will review the proposed program.

Commissioner Abernethy questioned the status of the prior list of late fee waiver requests. Stacey Kalberman responded that many of those on the list no longer had late fees due to HB 232. The Commission staff has instructed those still requesting late fee waivers to appear before the next in person Commission meeting to state their case.

PUBLIC COMMENT

Vice Chairman Belinfante opened the floor for public comment. None was made.

EXECUTIVE SESSION

Vice Chairman Belinfante indicated that the Commission would entertain a motion to close the public portion of the meeting and enter into executive session at this time to discuss personnel matters.

*Motion to enter into executive session made by Kent Alexander.
Seconded by Kevin Abernethy Carried 5-0*

Georgia Government Transparency and Campaign Finance Commission

200 Piedmont Avenue | Suite 1402, West Tower | Atlanta, Georgia 30334
404-463-1980 | www.ethics.georgia.gov

The Commission went into executive session at 12:05 PM

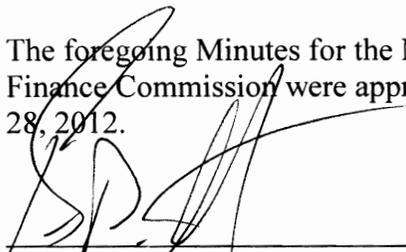
***Motion to end executive session made by Kent Alexander.
Seconded by Kevin Abernethy Carried 5-0***

The Commission exited executive session at 12:30 PM

Meeting adjourned at approximately 12:31 PM

Official Minutes Statement

The foregoing Minutes for the May 3, 2011 meeting of the Georgia Government Transparency and Campaign Finance Commission were approved and adopted by the Commission at the Commission's meeting on February 28, 2012.



Kevin Abernethy, Chair

2/28/12

Date



Holly LaBerge, Executive Secretary

2.28.12

Date

County of Cobb,
State of Georgia

Affidavit of Presiding Officer

GEORGIA GOVERNMENT TRANSPARENCY AND CAMPAIGN FINANCE COMMISSION

Personally appeared before the undersigned officer, duly authorized to administer oaths, Kevin Abernethy, Chair of the Georgia Government Transparency and Campaign Finance Commission, (the "Commission"), who, being sworn, states the following under oath:

1.

I am the Chair of the Commission. I am giving this Affidavit as required by O.C.G.A. § 50-14-4(b) to explain the closing to the public of a part of a meeting of the Commission. I have personal knowledge of the facts stated in this Affidavit.

2.

On May 3, 2011, the Commission met in an open meeting at the Floyd Building in Atlanta where I was present and acting in the capacity of Commissioner. By a vote of 5 to 0, the Commission closed a portion of its meeting to the public in order to discuss and deliberate upon personnel matters. No other topic was discussed during the closed portion, over which I presided. The meeting was closed in accord with the specific exception to open meetings under O.C.G.A. § 50-14-3(6) ("Meetings when discussing or deliberating upon the appointment, employment, compensation, hiring, disciplinary action or dismissal, or periodic evaluation or rating of a public officer or employee ...").

Sworn to and subscribed before me this
28th Day of February, 2012.



Lisa M. Dentler, Notary Public
My Commission expires April 8, 2014



Kevin Abernethy, Chair
Georgia Government Transparency and
Campaign Finance Commission