

DeKalb County Board of Ethics
Tuesday, March 3, 2015
6:30 p.m.
Conference Room A, Clark Harrison Building

Minutes

Members Present:

John Ernst, Chair
Edwinett Murphy, Secretary
Clara Black DeLay, Vice-Chair
Robert Blackman
Susan Neugent

Members Absent:

Bobbie Sanford
Thelma Grier

Board Affiliates Present:

Gene Chapman, Board Counsel
Jennifer Johnson, Administrative Assistant
Robert Browning, Investigator
Victor Hartman, Investigator

Attendees:

Stephen D. Apolinsky
Ruby Davis
Viola Davis
Rhea Johnson
Bob Lundsten
Zepora Roberts
Mike Cooper
Joe Arrington
Joel Edwards
Charles E. Peague
Mark Gannon
Jeff Rader
Barbara Lee
Warren Mosby
Kathy Gannon
Michelle Waldorf

I. **Call to order**

John Ernst, Chair, called the meeting to order at 6:35 pm

II. **Welcome**

III. Adoption of the Agenda

The agenda was reviewed. John Ernst added an item under Board governance to consider a resolution regarding the purported fraudulent Board of Ethics advisory opinion. Susan Neugent made a motion to adopt agenda. Motion seconded by Robert Blackman. The motion passed unanimously with a vote of 5-0.

IV. Review and Approve Meeting Minutes from December 18, 2014

The Minutes from the Board's meeting on December 18, 2014 were reviewed. Edwinett Murphy made a motion to approve the minutes and Robert Blackman seconded. The motion passed with a vote of 5-0.

V. Reports – Financial Report

Gene Chapman stated that the Financial Report is based on reports he received from Mr. Jay Vinicki, Analyst in the Accounting Department. There is a discrepancy in the expenditures set forth in the reports so Mr. Vinicki was invited to attend the Board meeting to explain the reports to members. He could not attend due to a conflict but will try to attend the next meeting. John Ernst stated that he has been told that additional funds are available to hire an Executive Director. Robert Blackman made a motion to approve the financial report. Edwinett Murphy suggested that the Board should table the matter until Mr. Vinicki can explain the discrepancies in the reports. Robert Blackman withdrew his motion. Edwinett Murphy moved to table any action on the Financial Report until the next meeting. Robert Blackman seconded the motion. The motion passed unanimously with a vote of 5-0. John Ernst asked that the Financial Report with attachments be emailed to Thelma Grier and Bobbie Sanford.

VI. Unfinished Business

- A. Preliminary hearing: Complaint of Monica Parrott against Commissioner Kathie Gannon and Michelle Waldorf. Robert Browning (investigator) discussed his investigation and reported that he found no indication that Ms. Gannon or her staff had misused the county purchasing card. Attorney Stephen Apolinsky, representing Commissioner Gannon, presented information to refute the allegations in the complaint. He asked the Board to dismiss the complaint since there was no evidence to show that Ms. Gannon or her staff had violated the Code of Ethics and the investigator did not find any mismanagement or violation of the Code of Ethics. Clara DeLay moved to dismiss the complaint against Commissioner Gannon on grounds of lack of probable cause. Robert Blackman seconded the motion. The motion carried with a vote of 5-0. Clara DeLay moved to dismiss the complaint against Michelle Waldorf on grounds of lack of probable cause. Robert Blackman seconded the motion. The motion carried with a vote of 5-0.
- B. Preliminary hearing: Complaint of Warren Mosby against Commissioner Jeff Rader. Susan Neugent made a statement regarding her professional relationship with Commissioner Rader and formally recused herself from consideration of the preliminary hearing and the new complaint against Mr. Rader. Warren Mosby discussed his allegations against Commissioner Rader. Mr. Rader responded and discussed the allegations against him. Robert Browning (investigator) presented information from his investigation and reported that he found no indication that Mr. Rader had violated the Board's Advisory Opinion number 9, misused the county purchasing card, or spent county funds improperly. Clara DeLay moved to dismiss the complaint against Commissioner Rader on grounds of lack of probable cause. Robert Blackman seconded the motion. The motion carried with a vote of 4-0.
- C. Consideration of questions for advisory opinions:
 1. The Board considered for adoption the draft of an advisory opinion identified as 2015-1 which addresses the proper seats and terms of office for each of the Board members. The opinion

includes Exhibits A through D. Pursuant to the Board's request at the previous meeting, Gene Chapman attached as exhibits documentation supporting the text of the opinion and a revised chart as an exhibit which started with the year 2010. Clara DeLay noted a change in wording from "departed from" to "failed to adhere to" on page 2 in the first sentence of the first full paragraph. Susan Neugent moved to approve the advisory opinion with the change in wording. Robert Blackman seconded the motion. The motion passed with a vote of 5-0.

2. Susan Neugent moved to take from the table Rhea Johnson's two requests for advisory opinions. Robert Blackman seconded the motion. The motion passed with a vote of 5-0. Rhea Johnson presented and discussed his request for an advisory opinion regarding the Board's use in the past of a county employee to assist the Board. Robert Blackman moved to decline Mr. Johnson's request for an advisory opinion on grounds that Mr. Johnson requested a definitive promise from the Board notwithstanding provisions in the Code of Ethics. Susan Neugent seconded the motion. The motion passed with a vote of 5-0.
3. Rhea Johnson presented and discussed his request for an advisory opinion regarding the Board's use in the past of an employee of the County Attorney to maintain records of the Board in the County Attorney's office. Robert Blackman moved to decline Mr. Johnson's request for an advisory opinion on grounds that Mr. Johnson requested an advisory opinion which would be a restatement of the law. Susan Neugent seconded the motion. The motion passed with a vote of 5-0.

D. Status reports

1. - 8. Matters are pending and are being investigated.
9. Complaint against John Ernst. John Ernst recused himself. Clara DeLay stated that she wanted to appoint an independent investigator for the matter. Robert Blackman asked Mr. Lundsten to explain why he was asserting the complaint. A discussion which was out of order ensued. Clara DeLay reiterated that an investigator would be appointed.

VII. New business

A. New complaints

1. Sharon Barnes-Sutton by Viola Davis. The Board asked whether Ms. Davis would consent to treatment of the complaint as an amendment to her complaint which is pending. Additionally, the Board asked Ms. Davis to submit clarification to identify which paragraph of Section 22A(c) she contends the commissioner violated and submit documents supporting her contention. Ms. Davis consented to the requests.
2. Judy Brownlee by Viola Davis. The Board asked whether Ms. Davis would consent to treatment of the complaint as an amendment to her complaint which is pending. Additionally, the Board asked Ms. Davis to submit clarification to identify which paragraph of Section 22A(c) she contends Ms. Brownlee violated and submit documents supporting her contention. Ms. Davis consented to the requests.
3. Jeff Rader by Barbara M. Lee. Susan Neugent, Robert Blackman, and Clara DeLay recused themselves from this matter. The Board could not consider this matter for lack of a quorum.
4. Kathie Gannon by Barbara M. Lee. Robert Blackman and Clara DeLay recused themselves from this matter. The Board could not consider this matter for lack of a quorum.
5. Nancy Jester by Barbara M. Lee. Robert Blackman and Clara DeLay recused themselves from this matter. The Board could not consider this matter for lack of a quorum.

B. New requests for advisory opinion

1. Viola Davis – John Ernst stated that the request would be carried to the next meeting agenda due to consideration of time.

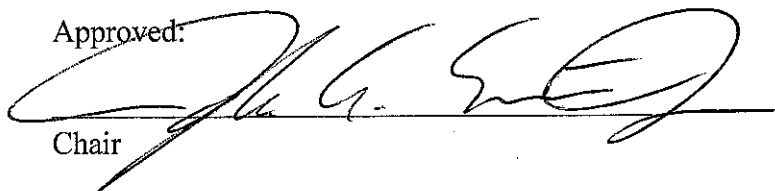
VIII. Board governance

- A. Resolution regarding purported fraudulent advisory opinion. John Ernst discussed the recent news report. John circulated a proposed resolution to address the Board's concern, waive attorney-client privilege as to Stephen Irving (former counsel to the Board), and offer assistance in the investigation of the matter. Clara DeLay questioned whether the Board should insert itself into the matter by passing a resolution. John Ernst discussed his concerns, the need to waive attorney-client privilege with regard to the investigation, and offer assistance to the investigation. The Board discussed the matter of attorney-client privilege. The Board declined to act on the proposed resolution. Clara DeLay moved to waive attorney-client privilege as to its former attorney Stephen Irving. Edwinett Murphy seconded the motion. The motion passed with a unanimous vote of 5-0. Susan Neugent moved to amend the previous motion by inserting specific reference to the advisory opinion purportedly issued by the Board of Ethics in response to a request by Mr. Vaughan Irons. Robert Blackman seconded the motion. The motion passed with a unanimous vote of 5-0.
- B. Discussion of office and personnel to aid the Board of Ethics. Clara DeLay recused herself from the discussion. John Ernst circulated the three bids received pursuant to the Board's Request for Quote issued through the county. The Board discussed the qualifications, credentials, experience, and bids set forth by BSS Group LLC, the Royster Group, and Robinson Consulting Services (RCS). RCS's materials reflected experience in traditional Human Resources searches and a bid of \$30,000. Royster's materials reflected experience in executive searches and a bid of \$40,000. BSS Group's experience included searches for executives with ethics experience and a bid of \$36,000. Robert Blackman moved to engage the services of BSS Group LLC. Susan Neugent seconded the motion. The motion passed with a unanimous vote of 4-0. Clara DeLay recused herself.
- C. Discussion of compensation for legal counsel. John Ernst presented the proposal previously discussed by the Board in Executive Session that counsel's compensation should be modified to reflect the hours expended. The terms are a monthly retainer of \$2,500, a supplement of \$1,500 if the hours worked reach 20 hours in a month, and \$200 per hour for time worked in excess of 20 hours in a month with a proviso that the Board's monthly payment to counsel will not exceed \$8,000. Robert Blackman moved to modify counsel's compensation in accordance with the terms discussed. Susan Neugent seconded the motion. The motion passed with a vote of 4-0-1 (Clara DeLay abstained).

IX. Adjournment.

Susan Neugent made a motion to adjourn and Robert Blackman seconded the motion. The motion passed with a unanimous vote. The meeting was adjourned at 9:35 pm.

Approved:


Chair

5-28-15
Date