

BOARD OF ETHICS

OPEN SESSION MINUTES

November 14, 2012 - 9:04 a.m.
740 North Sedgwick, Suite 500

Board Members Present

Stephen W. Beard, Chair
Russell F. Carlson
Mary T. Carr
Hon. Michael J. Gallagher
Frances R. Grossman
Daisy S. Lezama
Hon. Julia M. Nowicki

Staff Present

Steven I. Berlin, Executive Director
Lisa S. Eilers, Deputy Director
Richard J. Superfine, Legal Counsel
Ana Collazo, Attorney/Investigator
Edward Primer, Program Director
Pally Casillas, Staff Assistant

Visitor Present

Eve Rodriguez, Mayor's Press Office

Executive Director Steven I. Berlin welcomed the new Board of Ethics members and introduced the Board's staff.

I. Approval of Minutes

Board staff affirms the contents of the minutes of the October 17, 2012. The Board VOTED 7-0 to approve the Open Session Minutes of the October 17, 2012 meeting.

II. Chair's Report

The Chair, Stephen W. Beard, stated that this newly reconstituted Board of Ethics has high expectations about the work it will accomplish to advance Mayor Rahm Emanuel's commitment to ethics reforms, accountability and transparency. He thanked the incoming Board members and everyone in attendance for their service and commitment, and invited everyone to follow the work of the Board. Since announcement of the Board members' appointment, he has heard from many constituents--friends, neighbors and strangers alike--about their perceptions of ethics in Chicago and their expectations for the Board. He said that it is clear that their perception shows that there are challenges to the public's confidence in City institutions, and that the public expects the Board to play an important role in helping to ensure that public business is conducted according to the highest ethical standards, and further, that they expect it to occur with a degree of transparency that has not existed to date. He acknowledged and is encouraged by the extraordinary degree of heavy lifting already done on the Board's behalf. This begins with the Mayor's commitment to responsive government and undertaking a review of the ethics ordinance. It includes the excellent work of the Ethics Reform Task Force and its thoughtful recommendations. It includes the City Council's approval of a new and much stronger ethics ordinance, and the appointment of a revamped Board of Ethics. These, together with reforms to be introduced on November 15 to City Council, create a tremendous degree of momentum. Our collective success will be determined, in no small part, by

the degree to which we--together with the Board's staff--seize that momentum and lean into the opportunity before us, thoughtfully, deliberately and transparently. He reported that he looks forward to getting to know everyone and to working together.

III. Executive Director's Report

A. Personal Note

On behalf of the entire Staff of the Board Ethics, I officially welcome you, the new Board members. We know that you will find the work of our agency to be challenging, never boring, and very important. I speak for the entire staff in thanking all of you for your willingness to serve on this voluntary board, as you bring your expertise and professionalism to the work we do. Our small but dedicated and hard-working staff and I believe that the Board of Ethics is a gem among City departments, and appreciate the trust that the City has put in us, and will work hard to maintain that trust and work for you, the Board members, and the public, in the way that best exemplifies public service.

B. Education--Classes

Since the last Board meeting, staff has conducted 1 regularly scheduled class for persons required to attend face to face ethics training sessions every 4 years: on November 7, 21 persons attended the class here. Our next regularly scheduled classes are on December 5 and 19; a total of 31 employees are scheduled to attend.

Staff also conducted 3 other training sessions: on October 29, 15 Commissioners of City Special Services Areas (SSAs) and Executive Directors of service providers (typically local chambers of commerce, which are City contractors for purposes of the Ethics Ordinance) attended a training session conducted in City Hall at the request of the Department of Housing and Economic Development and the Board of Ethics. The class is one of a series that is being conducted over an 18-month span to train all Commissioners of the City's 45 SSAs, and their service providers. We estimate that this will involve about 45 classes, and will include about 600 persons altogether. On November 5, we hosted a delegation of print, radio and TV journalists from 7 countries in Africa: Senegal, Ivory Coast, Ghana, Nigeria, Botswana, Kenya and Ethiopia. On November 9, we conducted a training class for 25 newly hired employee in the Department of Streets and Sanitation, all hired through Local 1001 of the Laborers International Union. On December 11, we will conduct a seminar for all 15 new members of the Commission on Human Relations, at the request of the Executive Director of the Commission.

The Ordinance that took effect on November 1, 2012 also requires the Board to provide training for all new employees and officials—for those who must attend face-to-face training, within 120 days of their start, and for others, within 60 days of their start. Staff is working to finalize the program for those who need to complete the training within 60 days of their start date.

C. Education–Mandatory Annual Ethics Education

As of today, approximately 27,614 City employees and 7 aldermen have completed the 2012 program. We are thus at 88% compliance, and on track to reach 100% by December 31, 2012 at midnight.

All but 1 registered lobbyist completed the 2011-2012 program, putting us at 99.98% compliance. He, along with 3 others, was found in violation of the Ordinance at the Board's September meeting and fined \$750 apiece.

D. Other Training

At the suggestion of Cindi Canary, the Chair of the Task Force, we are working with the Mayor's Office and Second City Productions to finalize production of 3 short introductory ethics training videos. The Mayor will be in them, and they will be light-hearted but to the point. Second City donated its time and expertise to the City for this purpose. Filming occurred on October 31 and November 1.

We have identified ethics officers from nearly all City departments and ward offices. We are scheduling at least 2 classes to train them in their duties, and new developments in the law, as required by the Ordinance. We will hold these classes the week of December 12.

E. 2012 Budget

The staff appeared before the City Council's Budget and Government Operations Committee on October 25 for its annual budget hearing. Our 2013 budget appropriation is nearly identical to our 2012 appropriation, although the Budget Director informed me last week that we will be getting a ninth position, an administrative assistant whose primary duties will be to support the Legislative Inspector General.

F. Lobbyists

We currently have 687 lobbyist registrations, and have collected \$362,475 in registration fees. All lobbyists were notified of the activity report filing deadline as required by Ordinance. As required by Article IV of the Ordinance, which cover lobbyist registration and reporting, on October 25, staff sent 115 certified, email and first class mail notices to lobbyists who were late in filing their quarterly activity reports, and on November 13, sent 6 notices to the remaining non-compliant lobbyists that their names would be brought before the Board at its December 2012 meeting unless they complied, and that, if the Board determines that they violated the law, fines of \$1,000 per day will be assessed per Ordinance, and their names will be made public in the manner the Board determines.

G. Statements of Financial Interests

To date, 14,205 employees and officials have filed their statements in compliance with the law. We have collected \$25,820 in late filing fees for 2012. There remain 208 employees and 8 appointed officials who have yet to file. All of them were determined by the Board to have violated the Ordinance at the July 2012 meeting.

The criteria for which City employees must file Statement in 2013 and beyond has changed under the amended Ordinance. It has moved from a salary threshold to one related to job responsibility. Staff is working closely with the Office of Budget and Management and the Departments of Human Resources and Innovation and Technology to identify those titles and individuals who will be required to file in 2013, and re-tool the EFIS system (EFIS is short for Electronic Financial Interests Statements) so that all who will be required to file will be sent an email notice with filing and password instructions by March 1, 2013. We anticipate approximately 5,500 filers in 2013.

H. Ethics Ordinance Amendments

The Mayor's Ethics Reform Task Force issued Part II of its Report on August 28. The Report contains some interesting and productive recommendations—among the most important of which are the IG and LIG will present their Reports to us for a finding of probable cause, and then the matter will be set for a hearing on the merits for a final adjudication as to whether the Ordinance was violated. The Board is working on its comments on the draft ordinance that the Law Department has prepared. As part of the Management/Budget Omnibus Ordinance that was enacted by City Council on November 8, further refinements were made to section 2-156-110 of the Ordinance. This section deals with having prohibited ownership interests in City contracts work or business. These amendments will take effect on January 1, 2013.

I. New Publications

The amendments to the Ordinance took effect on November 1. Prior to that date, the Board produced, posted on the web, and tweeted 3 new brochures explaining the changes. One is for members of the public, the second for City Employees and Officials, and the third for companies and other persons who have or are thinking of bidding on City contracts. In addition, the Board sent out several City-wide email "blasts" to all City employees and officials with City email addresses: one covering political activity (in anticipation of the November 2012 elections) and the other explaining changes to the gift restrictions. In the next week, staff will publish and distribute its annual guide to holiday gift-giving and receiving. The laws have changed considerably since last year.

Early next week, the Board will publish and distribute, via blast email, twitter and web posting, its annual "Scrooge's Guide to Gifting for the Holiday Season."

J. Requests for Informal and Formal Opinions

The Board is on pace to set an all-time record for informal advisory opinions requested and issued. If the pace continues, the agency will have issued 6,210 opinions by year's end. Approximately 70% of requests come from City employees and officials, and 10% from lobbyists, 10% from representatives of City vendors and contractors, and the rest from former employees and officials and other governmental units, the public and the media. Note that, under Board Rules & Regulations, only current and former City employees and officials, lobbyists, vendors or contractors, or their attorneys, or any other person who is involved in the situation in which they seek advice, have "standing" to request advice from the Board. Approximately 40% of the Board informal opinions are requested via email, 50% via telephone, and the remaining in person (after class, or via drop-in visits).

K. COGEL

Between December 1 and 5, I will attend the 33rd annual COGEL (Council on Governmental Ethics Laws) Conference in Columbus, Ohio. COGEL is an international organization with more than 600 members, including all of the ethics, lobbying, campaign financing and election commissions and agencies in the United States and Canada at the federal and state/provincial level, and all large municipalities. COGEL has 5 "tracks": ethics, lobbyist regulation, financial disclosure, election administration, and freedom of information. The first 3 are of most interest to our agency. I will be a speaker in one session, summarizing new legislative and litigation initiatives and changes in the past year at the municipal level.

L. Illinois Freedom of Information Act

Since the last regularly scheduled Board meeting, the office has received no new requests for information under the Freedom of Information Act. This is only the second time this has occurred since I became the Acting and then full Executive Director, that is, since October 2006.

IV. Deputy Director's Report

M. Compliance Matters

Deputy Director Lisa Eilers briefed the Board regarding her work on Illinois Identity Protection Act training and an ongoing review of the City's ambulance billing policy.

V. Old Business

None.

VI. New Business

L. Other

1. Resolution of Attorney General Case 2012PAC21745 – FOIA Request for Review

Under the State's Freedom of Information Act, a requester complained to the Attorney General that he had not received a response from the Board. After a brief review, the Attorney General found that the Board had in fact sent a proper response, and closed its file in the matter.

The staff and Board then discussed the complaint and review procedures under the State's Freedom of Information Act and the Attorney General's role.

2. Discussion of use of email for meeting materials sent to Board members

Board staff has traditionally sent Board members materials for an upcoming meeting via U.S. Postal Service, 6 days prior to the meeting. At staff's suggestion, the Board discussed whether email be used as the primary method, and heard a brief report regarding security of email and the software options available to ensure that.

After discussion, the Board requested that staff not use email, but instead send the materials 6 days in advance of the meeting using the City's courier service, which is currently UPS.

3. 2013 Board of Ethics Meeting Schedule

The Board members discussed whether to change the default schedule of its 2013 meetings.

After discussion, the members said they will review the schedule and advise the Executive Director if there are conflicts. The default time of 3:00 p.m. was acceptable to all Board members.

Eve Rodriguez, an Assistant Press Secretary in the Mayor's Office, introduced herself and offered her assistance to the Board. She then left the meeting.

Faisal Khan, Legislative Inspector General, came in to introduce himself to the Board, then left the meeting.

The Board VOTED 7-0 to adjourn into Executive Session at 10:11 a.m. under 5 ILCS 120/2(c)(1) to discuss the appointment, employment, compensation, discipline, performance, or dismissal of specific employees of the public body or legal counsel for the public body, including hearing testimony on a complaint lodged against an employee of the public body or against legal counsel for the public body to determine its validity.

THE RECONVENED OPEN SESSION

After the Executive Session, the Open Session of the meeting reconvened at 12:16 p.m.

VII. Matters Considered by the Board in Executive Session

I. Approval of Executive Session Minutes

By a VOTE of 7-0, the Board approved the executive session minutes from the October 17, 2012 Board meeting.

II. Cases

A. Legislative Inspector General

1. Case No. 12008.OLIG

Staff reported that, at the Board's September and October meetings, the Legislative Inspector General reported on his completed investigation in this matter, which involves an aldermanic aide who, Mr. Khan found, misused his City position in a private matter involving Chicago Police Officers, and then lied during the investigation. The Board had sent the subject a notice of these findings, and given him sufficient time to present any additional evidence or information he had in his defense. The subject had done this. At its October meeting, the Board discussed his response in Executive Session, but concluded that it did not change the conclusions drawn by the Legislative Inspector General. At the November meeting, the Board presented the matter, along with the Board's views, expressed at the October meeting. The issue before the Board is whether to recommend that the alderman to whom the subject reports terminate the subject's City employment.

By a VOTE of 7-0, the Board "tabled" this case for the next meeting, scheduled for December 12, 2012, in order to review the record more carefully.

B. Advisory Opinions

2. Case No. 12065.A, Financial Interest in City Business

The Board discussed a draft advisory opinion to an appointed City official, addressing whether the official had violated section 2-156-110 of the Ordinance by having a prohibited "financial interest in City business," which business was not wholly unrelated to the work of her City commission.

By a VOTE of 7-0, the Board determined that the appointed official had violated section 2-156-110 of the Ordinance, and approved the draft opinion, which contains recommendations to the Mayor's Office.

3. Case Nos. 12067.1A and 12067.2A, Restrictions on Soliciting and Accepting Donations on Behalf of Charitable Organizations

Staff reported that it is working on an advisory opinion addressing whether City aldermen may solicit or accept donations from persons doing business with the City (and others) on behalf of two non-profit organizations on which they sit as directors. At the December 2012 meeting, the Board will consider the draft opinion that staff is preparing.

C. Query/Consult Summary

4. Case No. 12064.CNS, Travel

The Board discussed staff's guidance given to an alderman with respect to accepting expenses for foreign travel taken in her official capacity. Staff advised her that, under the Ordinance as newly revised, she may accept the travel expenses.

By a VOTE of 7-0, the Board approved staff's report.

D. Lobbying

5. Case No. 12046.41.LOB, Request to Reinstate Suspended Registration

The Board considered whether to reinstate the registration of, and remit the fines against, a lobbyist who filed his quarterly activity report after the statutory due date.

By a VOTE of 7-0, the Board reinstated the lobbyist's registration and remitted the fine against him.

E. Statements of Financial Interests

Employee - 2012 Non-Filers to Vacate

6. Case No. 12044.138.FIS

8. Case No. 12044.261.FIS

7. Case No. 12044.155.FIS

9. Case No. 12044.328.FIS

On each of these cases, the Board considered whether to vacate its prior determination that the employees named in them had violated the ordinance because they failed to file a Statement of Financial Interests when, in fact, information later presented to the Board shows that they were not required to file.

By a VOTE of 7-0 per case, the Board vacated its prior determination in each listed case.

F. Dismissed/Referred Complaint Report

10. Case No. 12066.C, No Jurisdiction

The Board considered the staff's report that it had dismissed and referred a complaint for lack of jurisdiction under the Ethics Ordinance.

By a VOTE of 7-0, the Board approved staff's report.

11. Case No. 12068.C, Referral of File

The Board considered the staff's report that it had referred a complaint to the Inspector General's Office. The complaint alleged improprieties with respect to the Board's annual online training.

By a VOTE of 7-0, the Board approved staff's report.

The Board VOTED 7-0 to adjourn at 12:16 p.m.