

**BOARD OF ETHICS**  
**OPEN SESSION MINUTES**  
November 19, 2014 - 3:09 p.m.  
740 North Sedgwick, Suite 500

**BOARD MEMBERS PRESENT**

Stephen W. Beard, Chair  
Russell F. Carlson  
Mary T. Carr  
Frances R. Grossman  
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  
Pully Casillas, Staff Assistant

**BOARD MEMBERS ADSENT**

Dr. Daisy S. Lezama

**I. APPROVAL OF MINUTES**

The Board VOTED 5-0 (Dr. Daisy S. Lezama, absent) to approve the Open Session Minutes of the October 15, 2014 meeting.

**II. CHAIR'S REPORT**

None

**III. EXECUTIVE DIRECTOR'S REPORT**

**A. Education-Classes**

Staff continues to work with the Department of Innovation & Technology to replace the system for scheduling people for 4-year classes.

On November 6, staff presented a class to 25 employees of a City vendor.

Staff has scheduled several classes with the City Council to provide classes regarding campaign financing matters.

**B. COGEL Annual Conference**

From December 7-10, staff will attend the annual conference of the Council on Governmental Ethics Laws (COGEL), in Pittsburgh. Staff is moderating and participating in two panels.

**C. On-line Training**

To date, 28,700 employees and 17 aldermen have completed their annual training program, which is compliance of about 91%. Reminders are being sent weekly to all departmental and aldermanic officers regarding the end-of-year deadline. The 2014-2015 lobbyist program is currently being written.

**D. Lobbyists-Regulation and Enforcement**

As of today, there are 623 registered lobbyists, and we have collected \$360,239 in 2014 registration fees. Only one lobbyist failed to file the quarterly report due October 20. Pursuant to Ordinance, he was sent a "due process notice" and then found by the Executive Director to be in violation of the Ordinance. His monetary penalty period begins November 19.

**E. Brochure Update**

All of our public enforcement/complaint/adjudication violations have been updated and posted on the website. Staff is now working on the "employee bill of rights," explaining one's rights and the procedures once investigative subjects receive their "30 day" notices from the appropriate inspector general. Earlier this month, the agency's annual "holiday gifting guide" was distributed via City wide email and posted on our website.

**F. Candidates' Statements of Financial Interests**

All candidates for elected City office are required by the Ordinance to file Statements of Financial Interests with our office within 5 days of qualifying as a candidate. All forms received from candidates are posted on our website as soon as they can be processed, and are collected under a new section of the website for easy access.

On November 17, we notified (via first class mail) 46 announced candidates who, our records indicate, have not yet filed their forms with us, of this filing requirement. We will update this notification process and send out more notices as the Chicago Board of Election Commissioners updates the list of announced candidates and we compare it with the list of candidates who have filed. Note that incumbents have all filed already, and, pursuant to law, need not file a second time in the same calendar year. If they do, however, we post their second form.

**G. Informal Advisory Opinions**

Since the October 2014 meeting, the agency issued 434 confidential advisory opinions. The leading categories were political activity, campaign financing, business travel, gifts, and employment of relatives.

Staff continues to work with the Department of Innovation & Technology on a “beta” version of a secure, searchable database for all such informal advisory opinions. This will enable Board staff to receive instantaneous reports of opinions issued by topic, department, title, date, etc.

#### **H. Mainframe Application**

The City has been phasing out all mainframe applications for years. We still have one program that resides on the mainframe, for mandatory quadrennial face-to-face ethics education. We are meeting later this week with the senior programmers in the Department of Innovation and Technology to discuss migrating that program to a more contemporary format with contemporary web architecture.

#### **I. Discussion regarding Northwestern University’s Proposed Master in Public Policy Degree Program**

On November 14, the Executive Director had a lengthy conversation with a representative of Northwestern, regarding needs for and content of a degree program that the University is contemplating. Among items suggested was that graduates have a keen understanding of the legislative process—the negotiations between the Executive and Legislative branch—and the importance and non-intuitiveness of political and governmental ethics, which encompasses primarily conflicts of interests.

#### **G. 2015 Budget**

The City’s budget was approved at this morning’s Council meeting. The Board had its public budget hearing on October 30. Note that at the budget hearing, an alderman asked what Council members might do to improve and ameliorate the perception that they are riddled with conflicts of interests. We suggested that either Board staff (or Board members) could attend regularly held community meetings and explain our agency’s role in government, and what our laws actually do cover and prohibit regarding aldermen (and what they do not), and that there is confusion and a misperception that conflicts of interest laws and ethics commissions are meant to erase or punish criminal behavior, and that this means that public education must remain a push for us. We have focused on educating the City’s workforce, but that is not enough.

#### **H. Freedom of Information Act**

Since the last Board meeting, the office has received 7 new requests under the Freedom of Information Act. Two were to the wrong department; one for lobbyists’ records; one for complaints against an employee; two for statements of financial interests; and one for records of reimbursement to employees or agents of the City for taxi or ride sharing

services. This agency advised two requestors that we had no records; turned over 8 lobbyists' records; advised the lobbyist we were not authorized to produce complaints against employees; produced 3 pages comprising a statement of financial interests; provided the link to the Clerk's web site to obtain two statements of financial interests; and is in the process of searching for records disclosing taxi or ride sharing reimbursements. Note that, as to the request noted at last month's meeting, we and the Public Access Counselor and the requestor are awaiting resolution of whether the materials we turned over will suffice, or must be submitted in a different format.

#### **IV. OLD BUSINESS**

The Executive Director reported on the status of Case No. 141263.C, which involves a complaint referred to this agency by the Office of the Inspector General.

#### **V. NEW BUSINESS**

##### **1. Board Meeting Schedule for 2015**

The Board deferred approval until all members had an opportunity to comment to staff.

##### **2. Consideration of Past Executive Session Board Minutes**

The Board VOTED 5-0 (Dr. Daisy S. Lezama, absent) to continue the confidentiality of its executive session minutes except for past instances where it has determined otherwise.

The Board VOTED 5-0 (Dr. Daisy S. Lezama, absent) to adjourn into Executive Session at 3:12 p.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.

In addition, The Board voted to adjourn into Executive Session under 5 ILCS 120/2(c)(4) to hear and discuss evidence or testimony in closed hearing as specifically authorized pursuant to Governmental Ethics Ordinance Section 2-156-385 and the Board's Rules and Regulations, 4-1 and 4-5, as amended, effective October 23, 2014, presented to a quasi-adjudicative body, as defined in the Illinois Open Meetings Act, provided that the body prepares and makes available for public inspection a written decision setting forth its determinative reasoning.

At 5:03 p.m., the Board VOTED 5-0 (Dr. Daisy S. Lezama, absent) to reconvene into open session.

**VI. MATTERS CONSIDERED AND ACTED UPON BY THE BOARD IN EXECUTIVE SESSION**

**I. APPROVAL OF EXECUTIVE SESSION MINUTES**

The Board confirmed it had approved the Executive Session minutes of the October 15, 2014 meeting by a VOTED 5-0 (Dr. Daisy S. Lezama, absent) in executive session.

**II. CASES**

**A. Dismissed and Referred Complaint Report**

1. Case Nos. 14035.CFR et seq. , Referral of Campaign Financing Investigations

The Board and staff discussed further revisions to a draft press release that would explain the matters that the Board will be referring to the respective Inspectors General.

**B. Query Consult Summary**

2. Case No. 141271.Q, Gift

Staff reported on an opinion addressing whether the giving of bonuses (in excess of \$50) by an alderman to his own staffers for performing City employment-related duties violates the City's Governmental Ethics Ordinance's ("Ordinance") gifting provisions.

Following staff's original conclusion that the "bonuses" were not gifts and did not violate the GEO, the requester posited a definition for "bonus" (which is not defined in the Ordinance) and highlighted that the term's synonyms are "gratuity, gift and present," provided two scenarios, and posited that City employees are not allowed to receive bonuses for employee-related services as it is akin to receiving a "tip/gratuity" for doing their jobs.

The requester was again advised that the giving of bonuses did not constitute a gift, and was not prohibited by the GEO. The opinion explained that there is no explicit prohibition under the Ordinance on a supervisor giving a subordinate a bonus for work-related performance from *non-City funds*, and that although it appears that such an expenditure is permissible under the Illinois election code, the individual should contact the Illinois State Board of Election for additional information.

3. Case No. 141277.Q, Reverse Revolving Door/Interest in City Business

Staff reported on an opinion involving a prospective employee who asked how the Ethics Ordinance would restrict him with respect to his current employer and a company that he owns should he accept employment with the City.

He indicated that he is currently employed by a non-profit organization that receives City funding, and that, should he take a job with the City, the position he would fill involves making City funding decisions with respect to non-profits. He also said that he is the owner of a company that will be receiving City funding for a project, but that the closing on this transaction will not occur until sometime in 2015. His company does business with a City "sister agency," as well.

He was advised in writing that:

1. Under §2-156-111(d), the "reverse revolving door" provision, were he to accept the City position, he must fully recuse himself from any City matters involving the non-profit by which he is currently employed for a period of two years.
2. Further, with respect to the §2-156-110, the Ordinance's "Interest in City Business" provision, he is prohibited from having a "financial interest" in any City work, contract or business once he becomes a City employee. Accordingly, he may not have an ownership interest in any City contract, work or business that is worth \$1,000 or more. Were he to accept a position with the City, he would have to either: (i) dilute his ownership interest in his real estate development company so that the product of that interest, when multiplied by the gross amount of the City contract or subcontract yields a figure of less than \$1,000; or (ii) avoid or terminate the project, contract or subcontract altogether.
3. With respect to compensation for work his company has already done on the project that will receive City funding, he may be paid for the reasonable value of the time and effort he expends prior to becoming a City employee. Hours worked and the difficulty of the work done would factor into a determination of what constitutes a "reasonable" payment.
4. The Ordinance's prohibition on City employees having a financial interest in City work does not apply to contracts with or work done in connection with City sister agencies as they are not part of the government of the City of Chicago.
5. As of the date he would begin City employment, the Ordinance's "Representation of Other Persons" provision, §2-156-090(a), would prohibit him from communicating with or preparing documents to any City official or employee on behalf of any third party.

**C. Office of the Legislative Inspector General**

*Requests for a finding of Probable Cause*

4. Case No. 13039.OLIG, Confidential Closing Report [2013OLIG0027]

The Board VOTED 5-0 (Dr. Daisy S. Lezama, absent) to make a finding of “probable cause,” and provide notice to the subjects on the matter. The Board voted after it considered the Office of Legislative Inspector General’s request, pursuant to its Confidential Closing Report, for a finding of probable cause under §§2-156-385(1) and (3) of the Governmental Ethics Ordinance. The Board found that the evidence in that report did show that there was probable cause to believe that an alderman and/or a staff member had violated one or more provisions of the Ordinance. The Report concluded that a (former) aldermanic employee violated the Ordinance by borrowing and not re-paying money from two constituents and improperly served on a fundraising committee, and that the alderman’s lack of cooperation in the investigation, use of City property for political purposes, and not keeping proper aldermanic time records also were Ordinance violations.

5. Case No. 13046.OLIG, Confidential Closing Report [2013OLIG0026]

The Board VOTED 5-0 (Dr. Daisy S. Lezama, absent) to make a finding of “probable cause,” and provide notice to the subjects on the matter. The Board voted after it considered the Office of Legislative Inspector General’s request, pursuant to its Confidential Closing Report, for a finding of probable cause under §§2-156-385(1) and (3) of the Governmental Ethics Ordinance. The Board found that the evidence in that Report did show that there was probable cause to believe that an alderman and/or a (former) staff member had violated one or more provisions of the Ordinance. The complaint or the Report alleged under the Ethics Ordinance the improper carrying out of constituent services and breach of fiduciary duty to the City.

*Petitions for a finding of Reasonable Cause to Commence Investigations:*

6. Case No. 141272.OLIG, Request to Initiate an Investigation [2014OLIG0039]

The Board VOTED 5-0 (Dr. Daisy S. Lezama, absent) to approve the petition to the Board from the Legislative Inspector General to enable that office to initiate an investigation.

7. Case No. 141273.OLIG, Request to Initiate an Investigation [2014OLIG0049]

The Board VOTED 2-3 (Dr. Daisy S. Lezama, absent), thus denying the petition to the Board from the Legislative Inspector General to enable that office to initiate an investigation.

8. Case No. 141274.OLIG, Request to Initiate an Investigation [2014OLIG0029]

The Board VOTED 4-1 (Dr. Daisy S. Lezama, absent) to approve the petition to the Board from the Legislative Inspector General to enable that office to initiate an investigation.

9. Case No. 141275.OLIG, Request to Initiate an Investigation  
[2014OLIG0044]

The Board VOTED 4-1 (Dr. Daisy S. Lezama, absent) to approve the petition to the Board from the Legislative Inspector General to enable that office to initiate an investigation.

10. Case No. 141276.OLIG, Request to Initiate an Investigation  
[2014OLIG0078]

The Board VOTED 5-0 (Dr. Daisy S. Lezama, absent) to approve the petition to the Board from the Legislative Inspector General to enable that office to initiate an investigation.

#### **IV. OTHER BUSINESS**

Staff discussed extensively a complaint that was filed with the Executive Director and the Inspector General on Tuesday, November 18. The Board has issued numerous opinions over the years addressing the precise manner in which the City's Governmental Ethics Ordinance applies to contractors of the City's four pension funds, as well as to City employees and elected officials who have some level of connection with these funds. The Board discussed issuing an advisory opinion regarding pension funds, which could serve as an effective educational tool, and in which the Board could make appropriate comments.

At 5:09 p.m., the Board VOTED 5-0 (Dr. Daisy S. Lezama, absent) to adjourn the meeting.