

# Board of Ethics

## Open Session Minutes

June 13, 2017, 3:04 p.m.  
740 North Sedgwick, Suite 500

### **BOARD MEMBERS PRESENT**

William F. Conlon, Chair  
Zaid Abdul-Aleem  
Nancy C. Andrade  
Stephen W. Beard  
Mary T. Carr  
Frances R. Grossman  
Dr. Daisy S. Lezama

### **STAFF PRESENT**

Steven I. Berlin, Executive  
Lisa S. Eilers, Deputy Director  
Ana Collazo, Attorney Investigator  
Pauilly Casillas, Staff Assistant

### **MEMBERS OF THE PUBLIC PRESENT**

Alejandra Cancino, BGA  
Chris Norborg, Office of Inspector General  
Chris O'Malley, Attorney  
Orlando Ortiz, Project Six  
Tom McDonnell, Attorney

A.D. Quig, The Daily Line  
Bill Ruthhart, Chicago Tribune  
Brooke Troutman, Law Student  
Nicholas A. Vallorano, Mayer Brown

The Board's guests introduced themselves.

#### **I. APPROVAL OF MINUTES**

The Board VOTED 5-0 (Stephen W. Beard and Dr. Daisy S. Lezama, absent) to approve the open session minutes of the Board's meeting of May 22, 2017.

#### **II. CHAIR'S REPORT**

The Chair made no formal report.

#### **III. EXECUTIVE DIRECTOR'S REPORT**

##### **A. Education**

##### **Classes and other presentations**

Since the Board's last regularly scheduled meeting on May 22, 65 employees and officials attended regularly scheduled classes on May 24, 25 and June 1 and 13. There are 44 scheduled for classes on June 22 and July 6.

Staff will make another presentation to a group of incoming laborers in the Department of Streets & Sanitation, at the request of the Commissioner and the Laborers' Local Union #1001; this session is still being scheduled for a date in July.

On May 25, at the request of the Mayor's Office and U.S. State Department, staff make a presentation to a visiting delegation of 21 anti-corruption officials and prosecutors, plus representatives from NGOs and journalists from 15 countries in Africa (Benin, Burkina Faso, Central African Republic, Democratic Republic of Congo, Cote d'Ivoire, Gabon, Ghana, Guinea, Mali, Malawi, Nigeria, Senegal, Somalia, Togo, and Uganda).

On May 31, the Executive Director conducted a training program for all personnel in the Chicago Police Department's Medical Services Section personnel. 24 persons attended.

On June 12, the Executive Director made a presentation for all incoming Mayoral Fellows. 27 persons attended.

On June 16, at the request of the Mayor's Office and U.S. State Department, staff will make a presentation to a visiting delegation of 6 anti-corruption officials, prosecutors and representatives from NGOs and journalists from the Republic of Kosovo.

Staff is in the process of scheduling classes for all supervisors in the Office of Emergency Communications and Management, at the request of the department's director.

Staff is in the process of scheduling classes for all inspectors from the Department of Buildings, at the request of the Building Commissioner. Staff has held special classes for building inspectors 4 times previously: in 2012, 2008, 2004, and 2000.

### **On-line Training**

The annual, all-new mandatory on-line training was posted. To date, 375 employees and officials have completed it. Departments and aldermanic offices are sending in their training plans, and the due date for them to return them to us is June 16. All employees and officials have until the end of the calendar year to complete the training. Violators have their names made public, and are subject to a \$250 per day fine after the grace period provided by law. Approximately 90% of the City's workforce completes the training via a secure internet site; the remaining personnel complete it by viewing a dvd (they do not have regular computer access).

### **B. Lobbyist Training**

All lobbyists are required to complete annual training, on line. To date, 484 lobbyists have completed their training – about 70% of registered lobbyists. They must complete it before July 1, 2017. Staff is sending out reminders regularly. Violators have their names made public, and are subject to a \$250 per day fine after the grace period provided by law.

### **C. Advisory Opinions**

Since the last regularly scheduled Board meeting on May 22, 2017, staff has issued 259 informal opinions.

During this time, the leading categories were, in descending order: gifts; travel; Statements of Financial Interests; lobbying; political activity; and campaign financing. The leading City departments from which requesters came in this period were (in descending order): City Council; Chicago Police Department; Mayor's Office; Chicago Public Library; Department of

Aviation; Department of Public Health; Department of Procurement Services; Office of the Inspector General; and Department of Law.

152 of these were from City employees in administrative or management positions; 31 from non-administrative/managerial employees; 11 from 8 individual department heads; 11 from 11 different City elected officials; 3 from aldermanic Chiefs of Staff; 2 from ethics officials in other government agencies; the remaining were from: 35 lobbyists or persons calling to inquire whether they need to register as lobbyists; 5 City appointed officials, and 9 from contractors or vendors.

50% came via email; 49% via telephone; the remainder via walk-ins.

Time permitting, several informal opinions of note will be discussed in closed session.

**D. Proposed Amendments to the Ethics Ordinance**

Aldermen Cardenas and Munoz have each proposed amendments to the Governmental Ethics Ordinance. Alderman Cardenas's would require all City contractors to complete annual ethics education. Alderman Munoz's would effectively define "City council employees" who are "independent contractors" as those who are compensated \$50,000 or more per year from the City for City-related work. The Board was asked to comment on these proposals by the Office of Legislative Counsel and Government Affairs, and turned in its comments on June 5.

**E. Website Modifications**

**Summary Index of Formal Advisory Opinions/Text of all Formal Advisory Opinions**

All formal Board opinions issued since 1986 are now posted on the Board's website (more than 875 of them), redacted in accordance with the Ordinance's confidentiality provisions. Redacted opinions are posted once issued by or reported to the Board. Further, summaries and keywords for each of these opinions are available on the Board's searchable index of opinions. There are only a handful of other ethics agencies that have comparable research tools.

We are unaware of jurisdictions that make their informal opinions public—though others issue them confidentially and enable requesters to rely on them in the event of an investigation or enforcement procedure.

**Summary Index of Board Investigations and Regulatory Actions**

We posted the summary index of all Board investigations, enforcement and regulatory actions undertaken by the Board since its inception in 1986 (other than those for violations of filing or training requirements or campaign financing matters). It includes an ongoing summary of all regulatory actions the Board is currently pursuing. It names names and penalties assessed where authorized by law. There are, to date, 106 such matters. The document makes clear that, despite comments made in the media over the last decade, the Board has been a robust enforcement agency, not a "do-nothing" agency. This continues through the Board's ongoing regulatory actions with respect to lobbying and campaign financing, even though the Board no longer has investigative authority.

### **Summary Index of Ongoing Investigations/Adjudications**

We continue to post on the Board's website an ongoing investigative record showing the status of every completed investigative report brought to the Board by both the Inspector General ("IG") (a total of four (4) since July 1, 2013) and the former Office of the Legislative Inspector General ("LIG"), since January 1, 2012, and the status of all 50 petitions to commence investigations that were presented to the Board by the former Office of the Legislative Inspector General. It is updated as appropriate, consistent with the Ordinance's confidentiality provisions.

On Friday, May 26, the IG submitted two (2) completed investigative reports and petitions for the Board to find probable cause. The first of these is on today's closed session agenda, with the staff's recommendation that the Board find probable cause and notify the subject of the IG's investigation, as required in the Ordinance. The second of these will be presented at the next Board meeting. I note that the first of these – on today's closed agenda – is a matter in which the Board advised the subject, who had requested an advisory opinion from the Board, that there was a past violation of the Ordinance, and that the subject could self-report to the IG, pursuant to §2-56-070(b) of the Ordinance.

Note: all future adjudicated or settled matters (on or after July 1, 2013) shall include the names of violators and penalties assessed.

#### **F. Disclosures of Past Violations**

July 2013 amendments to the Ordinance provide that, when a person seeks advice from the Board about past conduct, and discloses to the Board facts leading it to conclude that he or she committed a past violation of the Ordinance, the Board must determine whether that violation was minor or non-minor. If it was minor, the Board, by law, sends the person a confidential letter of admonition. If it was non-minor, then, by law, the person is advised that he or she may self-report to the Inspector General or, if he or she fails to do so within two weeks, the Board must make that report.

Since the time this provision (§2-156-070(b)) became effective on July 1, 2013, the Board has advised three (3) aldermen, two (2) aldermanic staffers, one mid-level City employee in an operating department, and one (1) department head and one (1) former department head that their past conduct violated the Ordinance. In three (3) of these six (6) cases, one (1) involving an alderman, the second an aldermanic staffer, and the third a former department head, the Board concluded that the apparent violations were not minor or technical, and the aldermen and aldermanic staff self-reported to the former LIG, and the former department head self-reported to the IG. Since the time that all matters involving the former LIG were consolidated with the IG, the IG has informed us that it has no record that the LIG ever commenced an investigation in the matter involving the alderman, and that the matter involving the aldermanic staffer was closed, apparently without further investigation by the LIG.

As noted above, the Board received two (2) completed investigative reports from the IG on May 26, 2017, with petitions for probable cause findings. One (1) of these matters is one in which the Board concluded that there was a past violation of the Ordinance that was not

minor, and then advised the subject of the self-reporting-to-the-IG provisions in the Ordinance.

In the three (3) cases in which the Board determined that minor violations had occurred, the Board sent confidential letters of admonition, as required by Ordinance.

There is no legal requirement imposed on the IG to report back to the Board on any actions it takes on matters or persons referred to it by the Board, unless the IG completes an investigation and submits a petition for a finding of probable cause to the Board based on that investigation.

There is one (1) other matter on today's closed agenda in which the staff believes there was a past violation, but that violation is minor, and recommends that the subject be sent a confidential letter of admonition.

#### **G. Lobbyists-Regulation and Enforcement**

As of today, there are 688 lobbyists registered. This represents a 2.5% increase in the number of registered lobbyists since the May 22 meeting, and is also the largest number of lobbyists registered with the Board since 2011. The Board has collected \$364,150 in registration fees.

On March 15, staff sent to the Law Department requests to collect the determined amounts of \$6,000 from the two (2) remaining lobbyists who have not paid their fines (after filing their documents, but beyond the probable cause notice period).

In today's closed session, the Board will take up the case of a formerly registered lobbyist who the Board found in violation of the Ordinance in September 2012, who now wishes to re-register. By design, the individual was locked out of the Board's electronic registration system, because the law provides that the Board "shall not accept a lobbyist registration statement from any persons who owes a fine pursuant ... until the fine has been paid in full." The Board referred the collection to the Law Department, but the fines remain due and owing.

#### **H. 2017 Statements of Financial Interests**

The deadline for filing Statement of Financial Interests for those given notice to file them was 11:59:59 pm on May 31. Individuals who filed after that time were afforded an opportunity to present valid reasons for their lateness, and to file prior to the close of business today, June 13, before the Board would impose a \$250 per day fine until they file. The Board sent out 133 notices of probable cause on June 2, via first class and certified mail informing persons who had not yet filed of this. To date, all but 37 individuals: 13 employees, 16 appointed officials, and 8 City council employees/independent contractors, have filed their 2017 Statements of Financial Interests. The fines begin to accrue for them tomorrow, unless they file today.

We will find up to 62 employees, 10 appointed officials, and 5 elected officials in violation of the Ordinance. There will be more on this in closed session. Under §2-156-465(b)(2) of the Ordinance, "the Board shall make public, in a manner the Board deems appropriate, the names of reporting persons who failed to file statements" on time.

Filed forms are posted on the Board's website as soon as they are processed by staff. Typical processing time is 24 hours. Staff is still working on posting forms filed by "City council employees" who are independent contractors. These forms are not linked to the City's CHIPPS/HR database, and thus staff must build a new link for the public to search them.

Newly hired, appointed, or promoted employees or officials are flagged by ethics liaisons or the Mayor's Office as filers, and are then sent notices to file (with password information) by the Board's "EFIS" system.

**I. Freedom of Information Act**

Since the last regularly scheduled Board meeting, the office has received one (1) request under the Freedom of Information Act, for lobbyists who "work for" a City Council committee, for all lobbyists registered for a particular company, and for all lobbyists who perform a particular type of service for the City. Staff worked with the requestor to clarify what was meant in the request, and produced or guided the requestor to all responsive documents in the agency's possession.

**IV. OLD BUSINESS**

None

**V. NEW BUSINESS**

None

The Board then excused its guests until the open session reconvened.

At 3:08 p.m., the Board VOTED 5-0 (Stephen W. Beard and Dr. Daisy S. Lezama, absent) to adjourn into Executive Session under: (i) 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. However, a meeting to consider an increase in compensation to a specific employee of a public body that is subject to the Local Government Wage Increase Transparency Act may not be closed and shall be open to the public and posted and held in accordance with this Act; (ii) 5 ILCS 120/2(c)(4) to hear and discuss evidence or testimony in closed hearing as specifically authorized pursuant to Governmental Ethics Ordinance Sections 2-156-385 and -392, and the Board's Rules and Regulations, 4., as amended, effective January 5, 2017, presented to a quasi-judicative 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; and (iii) 5 ILCS 120/2(c)(21) to discuss minutes of meetings lawfully closed under this Act, whether for purposes of approval by the body of the minutes or semi-annual review of the minutes as mandated by Section 2.06.

At 3:12 p.m., Dr. Daisy S. Lezama joined the meeting.

At 3:22 p.m., Stephen W. Beard joined the meeting.

At 4:43 p.m., the Board VOTED 5-0 (Nancy C. Andrade and Mary T. Carr, absent) to reconvene into open session, and invited its guests to re-join the open session of the meeting.

**VI. MATTERS CONSIDERED BY THE BOARD IN EXECUTIVE SESSION**

**APPROVAL OF EXECUTIVE SESSION MINUTES**

The Board VOTED 5-0 (Nancy C. Andrade and Mary T. Carr, absent) to approve the executive session minutes of the May 22, 2017 meeting.

**VII. CASEWORK**

*VOTED 5-0 (Nancy C. Andrade and Mary T. Carr, absent) - From this point forward.*

**A. Campaign Financing – Probable Cause Findings**

1. Case No. 17026.CF, Campaign Financing
2. Case No. 17027.CF, Campaign Financing

In these two (2) cases, the Board voted 5-0 (Nancy C. Andrade and Mary T. Carr, absent) to issue probable cause notices to a political contributor and the authorized political committees of two (2) City elected officials, informing them that, based on the Board's advisory opinion in Case No. 17017.CF, and records available on the website of the Illinois State Board of Elections, the Board has determined that there is probable cause to conclude that the parties violated the Ordinance's provision limiting political contributions from persons seeking to do business with the City to \$1,500 per elected official/committee/calendar year, and also informing them that, if they effect refunds of the excess amounts contributed within the time period specified in the Ordinance, the violations are erased by operation of law.

**B. Lobbying**

*Re-registration-Fines Owed*

3. Case No. 17030.LOB, Lobbyist Re-registration

In this case, the Board voted 5-0 (Nancy C. Andrade and Mary T. Carr, absent) to impose a fine of \$3,500 on an individual who had been registered as a lobbyist with the Board through September 24, 2012, but who, the then-Board determined, had violated the Ordinance by failing to timely file a lobbyist activity report and failing to complete required ethics training, and whose registration was then terminated by the Board. This individual has now attempted to re-register; the Board's electronic registration system blocked that registration, by design. The Board directed staff to inform the individual that re-registration could be effected upon payment of this \$3,500 fine, which represents a compromise of daily fines that could have kept accruing—this amount represents double the amount of the \$750 per day fine for failure to complete ethics training, and double the amount of \$1,000 per day for failing to timely file an activity report.

Unregistered/Unreported Lobbying Cases

4. Case No. 17011.01.LOB, Unregistered Lobbying

The Board will consider this case at its July meeting, and determine whether the subject violated the Ordinance by engaging in unregistered lobbying, and what the appropriate fine should be. A meeting with the subject was already held. (Chair William Conlon, recusing.)

5. Case No. 17011.05.LOB, Unregistered Lobbying

The Board previously determined there is probable cause to conclude that an individual lobbied on behalf of a company without registering. After considering the subject's written response, and meeting with the subject, the Board voted 5-0 (Nancy C. Andrade and Mary T. Carr, absent) to vacate its probable cause determination and dismiss the matter, on the basis that the communication was to inform the City of opportunities, not to influence administrative or legislative action.

6. Case No. 17011.08.LOB, Unregistered Lobbying

The Board voted 4-0 (Chairman William Conlon, recusing, and Nancy C. Andrade and Mary T. Carr, absent) to determine that James Abrams lobbied on behalf of a company without registering, in violation of the Ordinance. The Board will take up the penalty phase of the matter at its July 2017 meeting.

7. Case No. 17011.10.LOB, Unregistered Lobbying

The Board voted 5-0 (Nancy C. Andrade and Mary T. Carr, absent) to determine that Alan King lobbied on behalf of an organization without registering, in violation of the Ordinance. The Board will take up the penalty phase of the matter at its July 2017 meeting.

8. Case No. 17011.11.LOB, Unreported Lobbying

The Board determined there is probable cause to conclude that a registered lobbyist engaged in lobbying activity on behalf of a company, but failed to report that on the lobbyist's quarterly activity report. The case will be taken up at the Board's July 2017 meeting. Should the Board make a final determination of a violation, the individual would be subject to appropriate fines and be required to amend that quarterly activity report. The Board has already met with the subject.

9. Case No. 17011.14.LOB, Unregistered Lobbying

The Board will consider this case at its July meeting, and whether the subject violated the Ordinance by engaging in unregistered lobbying, and whether the subject's client engaged the subject in violation of the Ordinance, and what the appropriate fines should be (Chair William Conlon, and Zaid Abdul-Aleem, recusing.)



10. Case No. 17011.17.LOB, Unregistered Lobbying

The Board previously determined that there was probable cause to conclude that an individual lobbied on behalf of an entity without registering. After considering the subject's written response, and meeting with the subject's attorneys and representatives, the Board voted 4-0 (Chair William Conlon recusing and Nancy C. Andrade and Mary T. Carr, absent) to vacate its probable cause determination and dismiss the matter, on the basis that communications were in the nature of bilateral negotiations, not attempts to lobby.

11. Case No. 17011.27.LOB, Unregistered Lobbying

Because the underlying record (an email) remains unavailable to the Board, although it was summarized in the media, the Board is unable to determine whether there is probable cause to conclude that the subject engaged in unregistered lobbying.

After announcing the status of these cases, the Chair announced that, at the Board's next meeting scheduled, for July 19, 2017, the Board will discuss in Executive Session the fines for probable cause findings, and announce any fines imposed in Open Session.

**C. Other Cases for Probable Cause Findings**

12. Case No. 17029.C, Fiduciary Duty

The Board deferred consideration of this matter until the July meeting.

13. Case No. 17023.IG, Prohibited Conduct

In this case, the Board voted 5-0 (Nancy C. Andrade and Mary T. Carr, absent) to issue a probable cause notice to a former City employee who it determined violated the "Prohibited Conduct" provision of the Ethics Ordinance when she negotiated her future employment with an outside entity at the same time the entity and its subsidiaries had multiple contracts and contract modifications pending before her in her City job.

**D. Consideration of Past Violation**

14. Case No. 17028.Q, Representation

The Board directed staff to dismiss this matter, as the City official involved relied upon the advice of counsel before engaging in conduct that might have constituted a minor, technical violation of the representation of other persons provision in the Ordinance.

**E. 2017 Statement of Financial Interests Report**

13. Case No. 17025.01.FIS, et seq., Statement of Financial Interests

Staff reported that City employees and officials who were required to file before June 1, 2017, have been notified of their apparent violations and afforded an opportunity to

present valid reasons for their lateness. They must file prior to midnight, tonite, June 13, before the Board would impose a \$250 per day fine until they file. The Board sent out 133 notices of probable cause on June 2, via first class and certified mail informing person who had not yet filed of this. To date, all but 37 individuals: 13 employees, 16 appointed officials, and 8 City council employees/independent contractors, have filed their 2017 Statements of Financial Interests. The fines begin to accrue for them tomorrow, unless they file today. Therefore, the Executive Director will find up to 62 employees, 10 appointed officials, and 5 elected officials in violation of the Ordinance. Under §2-156-465(b)(2) of the Ordinance, "the Board shall make public, in a manner the Board deems appropriate, the names of reporting persons who failed to file statements" on time.

**VIII. OTHER BUSINESS**

None

At 4:55 p.m., the Board VOTED 4-0 (Nancy C. Andrade and Mary T. Carr, absent) to adjourn the meeting.