

**BOARD OF ETHICS**

**OPEN SESSION MINUTES**  
**MEETING OF JULY 18, 2022- 3:04 P.M.**  
740 North Sedgwick, Suite 500

**BOARD MEMBERS PRESENT**

William F. Conlon, Chair  
Zaid Abdul-Aleem  
Ryan Cortazar  
Dr. Stephanie Cox-Batson  
David L. Daskal

**STAFF PRESENT**

Steven I. Berlin, Executive Director  
Lisa S. Eilers, Deputy Director  
Richard J. Superfine, Legal Counsel  
Lauren Maniatis, Investigator/Attorney  
Pully Casillas, Staff Assistant

**MEMBERS ABSENT**

Norma Manjarrez  
Hon. Barbara McDonald

**GUESTS ATTENDING**

Heather Cherone, WTTW  
Pete Czosnyka, Citizen  
Alex Nitkin, The Daily Line  
Stephanie Snow, Office of Inspector General  
Mariah Woelfel, WBEZ  
Bryan Zarou, Better Government Association

*The meeting was convened and conducted through the use of the Zoom remote video and audio meeting platform.*

**I. APPROVAL OF MINUTES**

The Board VOTED 5-0 (Norma Manjarrez and Hon. Barbara McDonald, absent) to approve the Open Session Minutes of the June 13, 2022 meeting.

**II. CHAIR'S REPORT**

The Chair announced that Board member Zaid-Abdul Aleem's term expires on July 31, but that his membership on the Board will not be renewed. He praised Zaid for his dedication to the Board and to the citizens of Chicago, and his financial acumen, which has greatly helped the Board interpret the Ordinance.

He also stated that he will make a comment about the proposed amendments up for a vote before the City Council on July 20, and some controversy that has arisen around the package.

**III. MEMBERS' REPORTS**

None

**IV. EXECUTIVE DIRECTOR'S REPORT**

**A. Amendments to Ordinance**

As has been widely reported, the package of amendments to the Governmental Ethics Ordinance and City Council Rules was approved unanimously by the City Council's Ethics and Government Oversight

Committee on Friday, July 15. I testified at that meeting; my Opening remarks are attached to this Report. It goes before the full Council for enactment into law at the City Council meeting on July 20.

Last week, the Administration added new sections to the Ordinance as a condition of supporting the legislation. There will be more discussion on this in closed session. We have worked with Chair Michele Smith of the City Council's Committee on Ethics and Government Oversight and her staff, the Legislative Reference Bureau, the Law Department and the Mayor's Office on modifying the original package, in response to comments received from the Mayor, other City Council members, the Mayor's Office of Intergovernmental Affairs ("IGA"), and the Law Department. We also greatly appreciate the work of the Better Government Association, which assisted in drafting these amendments.

Highlights include:

- Greatly expanding the City's conflicts of interest provisions to ensure that City officials or employees cannot seek to influence City action on matters affecting or benefitting their relatives or domestic partners. Current law prohibits only managing contracts with firms with whom a City employee's or official's relative is employed or contracts. The new ordinance will sweep in any "administrative, legislative action or decision" – including, for example, issuing permits, licenses, and conducting inspections – and will prohibit firms from hiring relatives in a way that skirts this provision (§§2-156-030(b), -080(b), -130(b), -130 (c));
- Codifying long-standing Board case law that City employees and elected officials may not "represent," even informally, the interests of other persons, including non-profits, before City agencies and employees and officials acting in their official capacity, unless that representation is in the course of and required to perform one's City responsibilities, but adding in an exemption if a City official or employee is acting on behalf of a non-profit that wishes to donate goods or services to the City (§2-156-090(a));
- Streamlining the restrictions on City employees offering or giving gifts to their official superiors; making it clear that there is never an obligation to give a gift, and imposing a \$20 limit for group gifts and putting a cap of \$250 on individual gifts for very infrequently occurring situations like a wedding or childbirth (there is no such cap today) (§2-156-143);
- Ending the "privilege of the floor" for lobbying by former City Council members, and prohibiting lobbying on the floor of City Council during Committee or full City Council meetings, but explicitly allowing discussions between current City officials and employees (§2-156-301);
- Amending City Council Rules 14 and 44 to require that City Council members who recuse themselves from any matter in a Committee meeting disclose the recusal on the record to the City Clerk, who will record the recusal; and then the Board of Ethics will publish them;
- Clarifying that independent contractors to City Council members and committees who provide substantive services to the City are not City employees, but still must complete required training and file annual Statements of Financial Interests (§§2-156-010 (d-1), (d-2));
- Requiring City Council employees and independent contractors to disclose on their annual Statements of Financial Interests which City Council member, bureau, or committee they work for (§2-156-160);
- Extending the \$1,500 per year/per candidate committee limit on "corporate" political contributions to include contractors of additional "sister" agencies, including the Chicago Housing Authority, Public Building Commission, and a future elected school board whose contracts are worth more than \$10,000

in a 12-month period. Note: because there is no database of subcontractors, the amended proposal removed the original language that would have subjected subcontractors on City and named sister agency contracts worth more than \$10,000 in a 12-month period to the \$1,500 per committee/per calendar year limitation (§2-156-445(a));

- Extending the prohibitions on using City property or resources for political purposes to candidates for City elected office—under current law only incumbents or City employees or officials are covered (§2-156-135(b));
- Expanding the definition of “City property” to include the official City seal, City intellectual property, and machinery and tangible equipment like computers and smart phones, none of which may be used for political activity or without authorization (§2-156-010(e-1)). Note that the first of last week’s additions from the Administration is a new provision, §2-156-050, entitled “Incidental use of City seal – Authorized when.” It would allow any City official, employee, or candidate for City office to include an image of the City seal if all of the following conditions are met: (i) the image of the seal is incidental to the visual media viewed as a whole, as opposed to an element of primary focus, and (ii) the visual media is available in the public domain, and (iii) the visual media contains a clear written disclaimer that it is not related to the City’s official business.
- Clarifying that the lobbyist registration requirements do not apply to bona fide salespersons, or to regular citizens who are supporting efforts to get policy passed by, for example, visiting a ward office with a non-profit advocacy organization (§2-156-010(p));
- Clarifying that sworn CPD personnel may be employed as private security officers, provided they receive all required approvals from CPD itself (§2-156-142(f));
- Adds provisions allowing elected officials to solicit tangible or perishable goods, but not cash, from anyone, on behalf of identified charities, or solicit contributions, from anyone, to be made directly to a charity--as long as the officials receive no monetary benefit, no cash is accepted, and the solicitations are not targeted to specific donors. §§ 2-156-142(d)(13); -(h);
- Modifies fines for ethics violations by raising the fine range for ethics ordinance violations other than for late filing of Statements of Financial Interests and Lobbyists’ Activity reports and late training to \$250 per day (current law provides for a range between \$200 - \$750 per day); and up to \$20,000 for other violations of the Ordinance (other than for failing to register as a lobbyist as required), and enables the Board to impose an additional fine equal to the amount of any financial benefit the violator realized.
- In the second of last week’s additions from the Administration, it would also add another new section, §2-156-390, entitled “Independent Board Findings of Probable Cause – Prerequisites.” This new section would provide that, before making a probable cause finding based on information in the Board’s possession, the Board must notify the subject in writing of the nature of the suspected violation and afford the subject the right to respond within 10 days of the date the notice is mailed, and the Board may not make a probable cause filing until it receives the written response, or the 10 days expires.

We have on our website a color-coded version of the Ordinance showing all changes made since January 2018. See <https://www.chicago.gov/content/dam/city/depts/ethics/general/Ordinances/GEO-2019-color%20through%20June%202020.pdf>

**B. Education**

**On-line Training**

*For all employees and aldermen*

The all new employee/Elected Official training was posted on the City's e-learning platform. To date, approximately 23,100 employees and 32 City Council members have completed it. This represents about 74% of the expected City-wide total. This program must be completed before January 1, 2023; those who fail to complete it will be subject to penalties of \$250 per day until they do. We are grateful to our colleagues at the Department of Human Resources for their invaluable assistance in migrating the training programs to the City's e-learning management platform, as well as assisting us with the sexual harassment portions of each year's training program. The migration enables users to take the training from any computer, including their home computers. Previous training programs were deliberately designed to be taken only from City computers, for security reasons.

*For lobbyists*

To date 832 lobbyists completed the mandatory annual training, which was also posted on the City-wide e-learning system. The deadline was July 1, 2020. On July 5, we sent notices to 17 lobbyists who had not completed it; all but 5 have. They will be fined \$200 per day until they complete it, beginning July 18.

*For appointed officials*

To date 158 appointed officials have completed their training. They have until the end of the year to complete it. As with the all-employee/Elected official and lobbyist trainings programs, it is hosted on the City's e-learning platform.

**Classes and Other Presentations**

We cancelled all in-person classes from March 2020 on. Given the course of the pandemic, we may re-start them in August. We have extended all training deadlines accordingly. All Board classes and educational programs cover sexual harassment.

On June 16, at the request of World Chicago and the U.S. State Department, we made a 60-minute presentation to anti-corruption administrators and journalists from Albania, Austria, Kosovo, Latvia, Lithuania, North Macedonia, and Ukraine.

On June 29, I participated in a 60-minute virtual "town hall" on the proposed amendments to the Ethics Ordinance, hosted by the BGA, together with Ald. Michele Smith and Bryan Zarou, Director of Policy at the BGA.

On June 30, we made a 30-minute presentation to new employees of the Mayor's Office, at the request of the Chief of Staff.

On July 1, we made a 30-minute presentation to new employees of the Department of Street and Sanitation.

On July 15, also at the request of the Chief of Staff, I made a 35-minute presentation to all Mayoral staff on the restrictions on engaging in political activity.

**C. Advisory Opinions**

Since the Board's last meeting, we have issued 359 informal advisory opinions—a busy period. The leading categories for informal opinions were, in descending order: Gifts; Travel; Political Activity; City Property; Statements of Financial Interests; Post-employment; Lobbying; Outside Employment; and Conflicts of Interests.

The leading City departments from which requesters came in this period were, in descending order: City Council; Police Department/Civilian Office of Police Accountability (COPA)/Community Commission for Public Safety and Accountability (CCPSA); Mayor's Office; Chicago Public Library; Office of Inspector General; Department of Public Health; Department of Law; and Department of Buildings.

Informal opinions are not made public but are logged, kept, and used for training and future advisory purposes. This same practice occurs with our colleagues at the New York City Conflicts of Interest Board, who issue roughly the same number of informal opinions. They form the basis for much of our annual and periodic educational programs. Formal opinions are made public, in full text, with names and other identifying information redacted out.

In the past five (5) years, the Board has issued 65 formal opinions. There is one formal opinion on today's agenda.

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

The full text of every formal Board opinion issued since 1986 is posted on the Board's website (more than 915), redacted in accordance with the Ordinance's confidentiality provisions, here: [https://www.chicago.gov/city/en/depts/ethics/auto\\_generated/reg\\_archives.html](https://www.chicago.gov/city/en/depts/ethics/auto_generated/reg_archives.html).

Redacted opinions are posted once issued by or reported to the Board. Summaries and keywords for each of these opinions are available on the Board's searchable index of opinions, here: <https://www.chicago.gov/content/dam/city/depts/ethics/general/Publications/AOindex.docx>. We are working to add to this document live links to the full text of each opinion.

Only a few other ethics agencies 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.

**E. 2022 Statements of Financial Interests**

On February 28/March 1, as required by law, we notified 3,641 City employees and officials required to file 2022 Statements of their requirement to file and provided the link to file electronically. Since then, 109 individuals were added as filers by their departments: new hires, and those whose positions were re-classified into titles requiring them to file. Note: as new filers are added by each department as new hires or promotions are made, these newly added filers receive their notice to file within 24 hours of being added to the system.

The filing deadline for the original 3,641 was May 2. As of today, we have found 102 officials and employees in violation of the Ordinance, and fined them a total of \$40,600. There remains just one (1) employee who has not yet filed. We have sent letters to the Department Heads and City Council members for whom those

found in violation work, and to the Office of Intergovernmental Affairs, requesting that they report back to us on what disciplinary action they have taken. Nearly all have.

**F. Statements of Financial Interests filed by Candidates for Elected City Office**

The Ordinance requires that all candidates for elected City office file a Statement within five (5) days of qualifying as a candidate. Note that all currently-serving elected officials running for re-election have filed. As soon as staff learns of new candidates, we inform them via certified and first class mail of their filing requirement. We post all candidates' forms on our website upon receipt, at this link: [https://www.chicago.gov/city/en/depts/ethics/supp\\_info/CandidateFIS2023.html](https://www.chicago.gov/city/en/depts/ethics/supp_info/CandidateFIS2023.html)

**G. Lobbyists Filings**

Currently there are 805 registered lobbyists, and we have collected \$378,575 in registration fees.

We post updated lists of all lobbyists and their clients and contact information about once each month, at this link: <https://www.chicago.gov/content/dam/city/depts/ethics/general/LobbyistStuff/LISTS/LobbyistList.xls>

2nd Quarter Lobbying Activity Reports are due by 11:59:59 p.m. on July 20.

**H. Personnel Rules Revisions**

In conjunction with the Mayor's Office, Departments of Human Resources, Law, Buildings, Business Affairs and Consumer Protection, and others, we worked on updating the City Personnel Rules, which were last revised in 2014. In particular, we are assisting on revisions to Rule XXIX, entitled "Conflict of Interest," with respect to: (i) conforming the Rules to the current version of the Governmental Ethics Ordinance; and (ii) expanding that Rule to prohibit City employees from making certain recommendations as to the hiring of other City employees and to recommending vendors or tradespeople to persons who are subject to inspections, permit reviews, etc.

**I. Department Consultations**

In the last few months, we assisted the Department of Streets & Sanitation in revising its conflicts of interests policies with respect to recommending outside business to residents, at the request of the Mayor's Office and the Department's Commissioner.

We also are still working with the Commission on Human Relations to formulate a policy governing its employees' service on non-profit and other boards.

We also consulted with the Budget Office as to applicable ethics restrictions on the new Community Microgrants Program.

At the Mayor's directive we issued an ethics guide to evaluating and awarding CRP grants and contracts and as mentioned above, have offered each department a training session on the ethics guidelines.

**J. Chicago Casino Bids**

As was widely reported, the Mayor chose a casino operator. We issued guidance on lobbying to all elected officials recently, at her request, and we issued guidance on the restrictions in the Ordinance for the ~80 City employees and officials who worked on the process of selecting the Casino operator, also at her request. Board staff has worked closely with the Law Department, Mayor's Office, and the City's outside counsel (Taft, Stettinius and Hollister) to ensure that City officials and employees are informed of all reporting (and eventually, substantive ethics) requirements and prohibitions under the Illinois Gambling Act, 230 ILCS 10/1 et seq. Penalties for violating this law are severe: it is a Class 4 Felony under Illinois law, subjecting violators to fines up to \$25,000 and 1-3 years in prison. Note that the Gambling Act's reporting requirements are in addition to the restrictions in the City's Governmental Ethics Ordinance that would apply to those "applicants" who "communicate" with City officials or employees, such as the Ordinance's gifts restrictions and lobbyist registration requirements.

**K. Waivers**

Since July 1, 2013, the Board has had authority to grant waivers from certain provisions in the Ethics Ordinance. The Board has granted seven (7) and denied two (2). By law, we make all granted waivers public on our website.

**L. Sister Agency Ethics Officers**

We will meet on July 26 with the ethics officers from the other local governmental agencies: the Cook County Board of Ethics, Chicago Public Schools, Chicago Park District, Chicago Transit Authority, City Colleges of Chicago, Cook County Assessor's Office, Cook County Inspector General's Office (who are responsible for the Metropolitan Water Reclamation District), and the Chicago Housing Authority.

**M. Summary Index of Board-Initiated Regulatory Actions/Adjudications/Pre-2013 Investigations**

We post the summary index of all 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 undertook without an IG investigation. See <https://www.chicago.gov/content/dam/city/depts/ethics/general/EnforcementMatters/Invest-Index.pdf>

The Board makes public the names of all violators and penalties it assesses when authorized by law to do so. There have been, to date, 132 such matters. But only in those that occurred after July 1, 2013, can the Board release the names of those found to have violated the Ordinance. Since July 1, 2013, alone, there have been 61 such matters.

**N. Summary Index of Ongoing IG/LIG Investigations/Adjudications**

There are currently no completed IG ethics investigations awaiting adjudication.

We post on our website and continually update an ongoing investigative record showing the status of every completed investigation brought to the Board by both the Office of Inspector General (13 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 presented to the Board by the LIG. We update it as appropriate, consistent with the Ordinance’s confidentiality provisions. See <https://www.chicago.gov/content/dam/city/depts/ethics/general/EnforcementMatters/PubicScorecard.pdf>

Whenever the IG presents the Board with a completed ethics investigation in which the IG believes there have been violations of the Governmental Ethics Ordinance, the procedure that follows is governed by §2-156-385(3) and (4) of the Ordinance: the Board reviews the IG’s report, recommendations, and the entirety of the evidence submitted in its completed ethics investigation, including a review to ensure that the IG conformed with the requirement that it complete ethics investigations within two (2) years of commencing them (unless there is evidence that the subject took affirmative action to conceal evidence or delay the investigation), and that ethics investigations were commenced within five (5) years of the last alleged act of misconduct.

Then, if the Board finds that the evidence presented warrants a *prima facie* finding of probable cause to believe the subject violated the Ordinance, it notifies the subject of the allegations and affords the subject the opportunity to present written submissions and meet with the Board, together with an attorney or other representative present. The Ordinance provides that this meeting is *ex parte* – no one from the City’s Law Department or IG is present. Note that the Board may request clarification from the IG as to any evidence adduced in its investigation before making a probable cause finding (and indeed has done so). The Board cannot administer oaths at this meeting but can and does assess the subject’s credibility and the validity and weight of any evidence the subject provides.

If the subject does not rebut the Board’s *prima facie* probable cause finding, the Board may enter into a public settlement agreement—or the Board or subject may decide to proceed to a merits hearing that is not open to the public. That hearing would be held before an administrative law judge (ALJ) appointed by the Department of Administrative Hearings. The City would be represented by the Law Department (or a specially hired Assistant Corporation Counsel for that purpose), and the subject by their attorney. At the conclusion of the hearing, the ALJ submits findings of fact and law to the Board, which can accept or reject them, based solely on the written record of the hearing. The Board will then issue a public opinion in which it may find violations of the Ethics Ordinance, or find none, and impose appropriate fines.

The process may seem cumbersome. However, it was added to the Ordinance on July 1, 2013, based on specific recommendations of then-Mayor Emanuel’s Ethics Reform Task Force in Part II of its 2012 Report—the primary purposes being to: (i) guarantee due process for all those investigated by the IG (or former LIG); (ii) ensure that **only** the Board of Ethics could make determinations as to whether a person investigated by the IG violated the Ordinance, given the Board’s extensive jurisprudence and unique expertise in ethics matters; and (iii) balance due process for those investigated by the IG with an accurate adjudication by the Board and the public’s right to know of ethics violations.

On our website, we have a publication describing this process in detail: <https://www.chicago.gov/content/dam/city/depts/ethics/general/Publications/EnforceProcedures.pdf>

Note: fines range from \$500-\$2,000 per violation for non-lobbying law violations that occurred before September 29, 2019, and \$1,000-\$5,000 per violation for violations occurring after that, except for unregistered lobbying violations, the penalties for which are \$1,000 per day beginning on the fifth day after the individual first engaged in lobbying and continuing until the individual registers as a lobbyist.

Please note finally that, in all matters adjudicated or settled on or after July 1, 2013, the Board makes public the names of all violators and penalties assessed, or a complete copy of the settlement agreement. All



settlement agreements are posted here: <https://www.chicago.gov/city/en/depts/ethics/provdrs/reg/svcs/SettlementAgreements.html>

## **O. 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 they 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, under current law, the person is advised that they may self-report to the IG or, if he or she fails to do so within two (2) weeks, the Board must make that report. In 11 matters, the Board has determined that minor violations occurred, and the Board sent confidential letters of admonition, as required by the Ordinance. These letters are posted on the Board's website, with confidential information redacted out.

## **P. Litigation**

*Lee v. City of Chicago*. In June 2020, the City was sued in Cook County Circuit Court, Chancery Division, by a former City employee of the Civilian Office of Police Accountability (COPA). The case is *Jason W. Lee v. City of Chicago*, 2020 CH 04524. The plaintiff left City employment on February 28, 2020, and works as an attorney for the Policemen's Benevolent and Protective Association ("PBPA"). His suit alleges that the post-employment provisions of the Ordinance are unconstitutionally vague, and that the City is improperly attempting to regulate the practice of law by Illinois attorneys. It asked for a declaratory judgment and permanent injunction prohibiting the City from enforcing these restrictions against him. After the matter was briefed by both sides, on July 31, 2020, the Honorable Anna Demacopoulos denied the plaintiff's request for a temporary restraining order. The plaintiff was granted leave to file an amended complaint, and filed one, adding an as-applied constitutional challenge. The City moved to dismiss the entire matter. On February 25, 2021, Judge Demacopoulos granted the City's motion to dismiss concerning the facial challenge to sections 100(a) and (b) and also the as-applied challenge to section 100(a). The court, however, denied the motion concerning the as-applied challenge to section 100(b), but expressed concern that this claim may be moot. Count III was also dismissed; it asked for a declaratory judgment that, by enforcing the Ordinance, the City is violating PBPA members' right to "counsel of their choice." However, the court granted plaintiff leave to amend the complaint for all of the dismissed counts. Following the court's order on the City's motion to dismiss, the plaintiff was given leave to file an amended complaint, but he never did. Instead, he decided to move forward on the as-applied vagueness challenge to section 100(b) of the Ordinance. This is the only claim that survived the motion to dismiss. Judge Demacopoulos questioned whether this claim was moot in light of the expiration of the one year ban that applied to the plaintiff but left it up to the plaintiff whether he wanted to pursue the claim. Plaintiff may seek compensatory damages if he can prove that he suffered damage. The City filed its answer and affirmative defenses to the amended complaint on April 26, 2021. The plaintiff filed discovery requests. Board legal staff met with our attorneys in the Law Department and forwarded materials necessary to respond to these requests. There have been discussions regarding possible settlement of the matter as well, but the offer made by plaintiff to settle the matter was rejected.

Note: several PBPA members filed grievances under their collective bargaining agreement, alleging that their right "to counsel of their choice" was violated by COPA. These were settled on terms that do not affect the Governmental Ethics Ordinance's post-employment provisions.

Brookins v. Board of Ethics, et al. This matter is assigned to the Honorable David Atkins in the Chancery Division of Cook County Circuit Court. The Board's and my attorneys have moved to dismiss the entire lawsuit and have submitted briefs. We await a decision.

Czosnyka et al. v. Gardiner et al., docket number is 21-cv-3240. We and the City of Chicago are now dismissed out of this case. On June 17, six (6) individuals residing in the 45th Ward filed a lawsuit in United States District Court against 45th Ward Ald. James Gardiner and the City, alleging that their 1st Amendment rights were violated by the Ald.'s improper blocking of them on his "official" City social media accounts. The plaintiffs sought certification of a class of all those improperly blocked by the Ald. The suit also alleged that more than 20 complaints of improper blocking were filed with the Board and the IG, but the City "failed to take any action to reprimand Alderman Gardiner, although it has the power to do so," and thus "acquiesced in [the Alderman's] constitutional violations." It seeks to have the plaintiffs reinstated as full participants in these social media accounts and unspecified damages. The case is before the Honorable Judge Sharon J. Coleman.

On October 26, 2021, Judge Coleman granted the City's motion to dismiss it from the suit, and on January 12, 2022, denied the plaintiffs' motion to reconsider her decision. Plaintiffs could appeal this decision to the Seventh Circuit Court of Appeals. The residents sought to hold the City liable under the "failure to discipline" *Monell* theory of municipal liability. Specifically, they argued that the City should be held liable for failing to investigate Ald. Gardiner through the IG and also for failing to fine him through the Board of Ethics.

Note that Ald. Gardiner retained independent counsel and moved to dismiss the suit on the basis that the social media site does not constitute an "official City site." On February 10, 2022, Judge Coleman denied that motion, writing that:

"Plaintiffs have plausibly alleged that Alderman Gardiner restricted their access to a public forum in violation of the First Amendment by barring them or deleting their comments from the interactive portions of his Facebook Page that designates Alderman Gardiner as a government official. These facts raise a reasonable inference that plaintiffs are not alone in suffering constitutional injuries resulting from Alderman Gardiner's practices. Moreover, plaintiffs have set forth sufficiently detailed allegations that Alderman Gardiner knowingly banned constituents and engaged in content-based regulation of speech on his Facebook Page. Further, he did so unilaterally while seeking out engagement from users."

On June 1, we received a subpoena from the plaintiff for internal records on this matter. We have been working closely with the Law Department on our response.

**Q. Freedom of Information Act**

Since the last Board meeting, the Board has received two (2) requests. The first was a City-wide request for records involving the Highland Park Shooting; we had no responsive documents. The second was a citizen request for the recording of the Open Session of the Board's June 13, 2022 meeting; we produced it.

**R. Employee Vaccination Status**

I'm pleased to report that all seven (7) staff members are fully vaccinated for Covid-19, and in compliance with the City's policy on vaccinations.

**V. PUBLIC COMMENTS**

Pete Czosnyka spoke and said that he has filed repeated complaints with the Board and Office of Inspector General regarding being blocked from a social media site operated by Ald. Nicholas Sposato or his staff. He argued that this site once was an official site but that it has been improperly converted into a political or personal site, and thus the blocking was improper under the Board's case law and interpretation of the Ordinance. The Chair explained—as the staff had explained to him numerous times—that the fact a person was blocked does not constitute prima facie evidence of a violation, and that only a full factual investigation conducted by the Office of Inspector General (“OIG”) that would ferret out the precise post(s) that led to the blocking, which the Board could then analyze, is required, because the Board does not have the authority to investigate why a person was blocked. Mr. Czosnyka replied that, in the public session of the Board's June 2022 meeting, Ald. Sposato stated that he blocks people for various reasons. Still, the Chair explained, the Board cannot proceed without knowing exactly why a specific person was blocked. Mr. Czosnyka stated that he has filed repeated complaints with the Board and OIG and will continue to do so.

**VI. OLD BUSINESS**

Status of Substitute Package of Proposed Amendments to Chapter 2-156 and City Council Rules

The Executive Director went through the major changes in this package, which is up for a final City Council vote on July 20. He said he hopes the package will pass, and that at its heart are several provisions: 1) a significant expansion of the anti-nepotism provisions so that City employees and officials would be prohibited from participating in or trying to influence any City decisions or matters involving their relatives (current law, in effect since 1987, prohibits them only from “exercising contract management authority” over contracts with persons or companies owned by or that employ their relatives); 2) raising the maximum fine from \$5,000 to \$20,000 for Ordinance violations other than for failure to file or complete training on time; 3) ending the ability of persons to lobby on the floor of the City Council during any Council meeting or committee meeting; and 4) expanding the restrictions on the use of City property for electioneering purposes to candidates for elected City office who are not already City employees or officials.

He said that many of these changes are cutting edge, and thanked Ald. Michele Smith, Chair of the City Council's Committee on Ethics and Government Oversight, and her staff, for her leadership, and the Better Government Association for its collaboration, and the Mayor's Office and City Council members for their insights and contributions.

**VII. NEW BUSINESS**

None

**VIII. PRIOR BOARD MEETING'S EXECUTIVE SESSION MINUTES**

This matter shall be discussed in Executive Session.

At 3:17 p.m., the Board VOTED 5-0 (Norma Manjarrez and Hon. Barbara McDonald, 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, as amended, effective January 5, 2017, 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; 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 4:25 p.m. the Board VOTED 5-0 (Norma Manjarrez and Hon. Barbara McDonald, absent) to reconvene in Open Session.*

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

**I. APPROVAL OF THE EXECUTIVE SESSION MINUTES**

The Board confirmed its discussion in Executive Session, and VOTED 5-0 (Norma Manjarrez and Hon. Barbara McDonald, absent) in Open Session, to approve the Executive Session Minutes of the June 13, 2022 meeting.

**II. OLD BUSINESS**

None

**III. NEW BUSINESS**

None

**IV. CASEWORK**

**A. Advisory Opinions**

1. Case No. 22024.A, Unauthorized Use of Real or Personal City Property

The Board VOTED 5-0 (Norma Manjarrez and Hon. Barbara McDonald, absent) to continue this matter until the Board's August meeting so that the Respondent can submit any materials they want us to consider and appear in person with respect to the probable cause finding in this matter.

**B. Status Report**

2. Case No. 22013.IG, Unauthorized Use of Real or Personal City Property, Prohibited Political Activities, Fiduciary Duty

The Board VOTED 5-0 (Norma Manjarrez and Hon. Barbara McDonald, absent) to dismiss this matter, having been advised, and having confirmed, that there is now compliance in the area of concern.

3. Case No. 22022.C, Unauthorized Use of Real of Personal City Property, Prohibited Political Activity

The Board VOTED 5-0 (Norma Manjarrez and Hon. Barbara McDonald, absent) to dismiss this matter.

At 4:29 p.m., the Chair announced that the Board would issue a formal written statement on July 21 addressing the comments that have been made about its processes, and that the Board offers full due process to all persons subject to Board-initiated enforcement actions.

At 4:35 p.m., the Board VOTED 5-0 (Norma Manjarrez and Hon. Barbara McDonald, absent) to adjourn the meeting.



CITY OF CHICAGO



BOARD OF ETHICS

Good afternoon, Madame Chair Smith and Honorable members of the Committee on Ethics and Government Oversight.

I thank you for the opportunity to explain this important new government ethics package.

It is based largely on the experience of the Board of Ethics and the Committee on Ethics and Government Oversight, and it incorporates significant content from the Administration, City Council members, and the Better Government Association. I expressly thank you all for your insights and contributions.

Among other things, this legislation would close gaps in the conflicts of interest laws governing the conduct of all City employees and officials as to their relatives. That is really at its heart. It comes from our Board's years of consultation with employees and officials at all levels and all departments—and on the invaluable work of our colleagues at the Office of Inspector General.

And, it would institute new standards that apply specifically to elected officials and increase transparency in a number of important ways, which I will explain.

Many of these new laws would place Chicago solidly in the vanguard of government ethics regulation.

I have been honored to work for the Board since 1993, with superbly dedicated Board members and staff, and with a wise mentor, Dorothy Eng, who some of you will remember. In this time, I have been fortunate to participate in writing and administering dozens of ethics law amendments.

Getting to good, tight ethics laws is, and has ever been, a tense, emotional process. As Chair Smith has said, it's a marathon, not a sprint. Further, no single ethics package is going to "finally bring corruption to its knees." This one is no exception. But it does represent a big step in the right direction.

And, I stress, it was negotiated. Our system of government is built on deliberation and compromise. As I learned early in my legal career, a good compact is one where everyone walks away equally *dissatisfied*. But — and this is critical — this a package we can be proud of, and there is much in it that should *satisfy* everyone.

I appreciate everyone's patience and good faith—we all act with the understanding that passing powerful, clear ethics laws benefits us all, even if there is discomfort over certain details.

Finally, please rest assured that the Board and its staff are seasoned, dedicated, fair-minded professionals: we will continue to interpret, administer, and enforce these laws with the utmost respect for their letter and spirit, and for those subject to and affected by them. As always, we are available 24/7/365 to provide confidential guidance to all City Council members, staff, and City personnel. Please just contact us.

Respectfully submitted,

Steven I. Berlin, Executive Director