

BOARD OF ETHICS
OPEN SESSION MINUTES

September 25, 2013 - 3:08 p.m.
740 North Sedgwick, Suite 500

BOARD MEMBERS PRESENT

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

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 MEMBER ABSENT

Hon. Julia M. Nowicki

ATTENDEE

George Blakemore, Citizen

I. APPROVAL OF MINUTES

The Board VOTED 6-0 (Julia M. Nowicki, absent) to approve the Open Session Minutes of the August 21, 2013 meeting.

II. CHAIR'S REPORT

Deferred.

III. EXECUTIVE DIRECTOR'S REPORT

A. EDUCATION-CLASSES

Since the last Board meeting, we have held 2 classes in our offices, on August 29 and September 12. 39 employees attended. There are currently 30 employees scheduled for classes on September 26 and October 10.

At the request of the department's commissioner, 2 classes were held for the management of the Department of Fleet and Facilities Management, on August 29 and September 9. 48 employees attended.

On September 12, staff held a class for 22 field managers of the Department of Streets & Sanitation, at the request of the department's commissioner.

On September 16, at the request of the Mayor's Office and the Governor's Office, staff made a 60 minute presentation to a group of visiting city council members from Lagos, Nigeria.

B. ON-LINE TRAINING

There are currently 31,200 employees and 50 aldermen scheduled to complete the 2013 on-line training. To date, 21,175 employees and 5 aldermen have done so—about 67 % of the total—and another 450 are in progress.

In the past month, the staff has been assisting two other governmental units: the City Colleges of Chicago and the City of Evanston, in developing ethics training.

C. LOBBYISTS

There are 662 currently registered lobbyists, and we have collected \$ 352,100 in registration fees in 2013. Since the last Board meeting, 11 lobbyists terminated their registrations. The Board de-activated (terminated the registration of) 9 lobbyists, pursuant to Ordinance: 7 for failure to complete training in a timely fashion, and 2 because they failed to file activity reports. For the second quarter of 2013, there was 1 lobbyist who did not file an activity report. There will be more on these lobbyists in Executive session.

D. STATEMENTS OF FINANCIAL INTERESTS

We have received and processed 3,497 Statements of Financial Interests from persons required to file them in 2013. Of the 3,478 required to file by May 31, all but 6 appointed officials have filed. This puts the City at 99.9% compliance. These 6 were found to have violated the Ordinance, and their names sent to the Mayor's Office for possible sanctions, including removal from office. The office has been in frequent communication with the Mayor's Office on this matter.

E. INFORMAL ADVISORY OPINIONS

To date in 2013, we have been asked for and issued 4,330 informal advisory opinions via telephone, email and in person. 74% of these were issued to City employees and elected and appointed officials (about 10% of these to elected officials and department heads), 16% were issued to lobbyists. Of the remainder, 2/3 were from attorneys, vendors, political committees or political contributors. We have seen a trebling of travel-related requests, since the enactment of the City's new travel policy by the Office of Budget & Management, and jumps in inquiries relating to political activity and service on non-profit boards.

F. UPDATED EDUCATIONAL BROCHURE

Staff posted an updated brochure for Appointed Officials on the website. The updates cover contracting with local Chambers of Commerce and SSAs.

G. CAMPAIGN FINANCING INVESTIGATION TRANSITIONS

Staff has met extensively with representatives from the City Inspector General's and Legislative Inspector General's office regarding transitioning existing and future investigations of potential violations of the "old Campaign Financing Ordinance" and new Article VI of the revised Governmental Ethics Ordinance to these offices. As of July 1, 2013, this agency no longer investigates violations of these Ordinances.

H. RULES & REGULATIONS

Staff released the draft Rules & Regulations for public comment, as well as to the City Council, Mayor's Office, Law Department, Department of Administrative Hearings and the two Inspectors General. We have received comments from the Law Department, Department of Administrative Hearings and Inspector General, and met with each of them. We will continue to work on these Rules for submission to City Council. They become effective 45 days after they are submitted to City Council, unless the City Council votes (by majority vote) to disapprove them.

I. FREEDOM OF INFORMATION ACT

Since the last regularly scheduled Board meeting, the office has received 7 new requests under the Freedom of Information Act. There were: one request for Statements of Financial Interests filed by a former employee, one request for correspondence between the Board and a lobbyist from Sept 3-Sept 13, 2013, and 5 requests for filings from 5 lobbyists between 2006 and 2013. This agency had no statements of financial interests, produced 4 records of correspondence, and produced 579 lobbyists' records.

J. LAWSUIT FILED BY FRATERNAL ORDER OF POLICE

On August 29, the judge in the Small Claims Court of Cook County Circuit Court granted the City's motion to dismiss this lawsuit, but granted the plaintiffs leave to refile it within 21 days (which have passed). The case was brought by 43 members of the Fraternal Order of Police, seeking refunds of their \$20 late filing fee for filing their 2012 Statements of Financial Interests after May 31. There will be more on this matter in Executive Session.

IV. DEPUTY DIRECTOR'S REPORT

None.

V. OLD BUSINESS

None.

VI. NEW BUSINESS

K. THE 2014 BOARD OF ETHICS MEETING SCHEDULE

The Board deferred consideration in order to review the proposed 2014 Board of Ethics meeting schedule and vote on it at its next Board meeting.

L. THE BOARD'S CONSIDERATION OF CONTINUED CONFIDENTIALITY OF EXECUTIVE SESSION MINUTES

The Board deferred discussion until the executive session pursuant to Open Meetings Act of Illinois, 5 ILCS 120/2(c)(21).

M. OTHER

Mr. Blakemore, a concerned citizen, addressed the Board and brought up several points, among which were: (i) the need for more education of the public about the Board; (ii) the confusing legal relationship between the Board and two inspectors general; (iii) the need for the Board's executive director to read his full report aloud at Board meetings; (iv) what is on the Board's website; and (v) having Board meetings at different venues. He then excused himself from the meeting.

The Board VOTED 6-0 (Julia M. Nowicki, absent) to adjourn into Executive Session at 3:30 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.

THE RECONVENED OPEN SESSION

After the Executive Session, the Open Session of the meeting reconvened at 5:20 p.m.

VII. MATTERS CONSIDERED BY THE BOARD IN EXECUTIVE SESSION

I. APPROVAL OF EXECUTIVE SESSION MINUTES

The Board VOTED 6-0 (Julia M. Nowicki, absent) to approve the minutes of the August 21, 2013 meeting in executive session.

II. CASES

A. ADVISORY OPINIONS AND WAIVER REQUESTS

1. Case No. 13025.A, Financial Interest in City Business

The Board VOTED 6-0 (Julia M. Nowicki, absent) to determine that an appointed official violated the Ordinance by leasing a property that he owned to an entity that paid for the lease with City-administered funds, and to approve staff's draft advisory opinion recommending fines and removal from office.

2. Case No. 13041.A, Financial Interest in City Business

The Board VOTED 6-0 (Julia M. Nowicki, absent) to determine that a former employee violated the Ordinance by co-owning with his spouse a company that was retained as an indirect City subcontractor while he was still a City employee, and to approve staff's draft advisory opinion recommending fines against the former employee and that the Law Department consider taking legal action for the City to recuperate the amounts it paid to this employee's company in excess of the legal limit.

3. Case No. 13042.WAI, Post-Employment

The Board deferred consideration of a request for a waiver of the post-employment provisions until the next scheduled Board meeting.

4. Case Nos. 12038.CF and 13044.A, Campaign Financing

The Board VOTED 6-0 (Julia M. Nowicki, absent) to approve staff's recommendations and determined that: (i) contributions made by 3 entities in a single reporting year were actually made by affiliated entities and should be aggregated and considered made by the same entity; (ii) these entities had done business with the City and two sister agencies and thus were subject to the Ordinance's limitations at the time of the contributions; and (iii) the contributions were in excess of the limit; thus (iv) the contributors had violated the "old" Campaign Financing Ordinance; but (v) had brought themselves into compliance

by receiving a refund of the excess contributions from the political committee; and finally, (vii) to admonish them that, for an identical violation under the new Ordinance, the penalties are severe and would be made public.

The Board also VOTED 6-0 (Julia M. Nowicki, absent) to approve and publish the draft educational advisory opinion based on this case, which included a discussion of the many issues raised.

B. OFFICE OF LEGISLATIVE INSPECTOR GENERAL

5. Case No. 13046.OLIG, Petition for Permission to Investigate

The Board deferred this matter until the October meeting.

6-12. Case Nos. 12009.OLIG; 12034.OLIG; 12062.OLIG; 13009.OLIG; 13014.OLIG; 13011.OLIG; 12031.OLIG.

These cases each involve concluded investigative reports from the Legislative Inspector General's Office (LIG). The Board first recognized the appropriate legal standard, which is whether there is probable cause (or not) to conclude that the alderman may have violated the Ordinance. **Accordingly, in the following cases, the Board:**

6. Case No. 12009.OLIG, Final Report

7. Case No. 12034.OLIG, Final Report

8. Case No. 12062.OLIG, Final Report

By a VOTE of 6-0 (Julia M. Nowicki, absent) the Board determined that there is no probable cause to conclude that the Alderman under investigation may have violated the Ordinance, and dismissed these matters.

9. Case No. 13009.OLIG, Final Report

By a VOTE of 4-2 (Julia M. Nowicki, absent) the Board determined that there is probable cause to conclude that the Alderman under investigation may have violated the Ordinance, and directed staff to begin preparation of the required notice for hearing.

10. Case No. 13014.OLIG, Final Report

By a VOTE of 5-1 (Julia M. Nowicki, absent) the Board determined that there is probable cause to conclude that the Alderman under investigation may have violated the Ordinance, and directed staff to begin preparation of the required notice for hearing.

11. Case No. 13011.OLIG, Final Report

By a VOTE of 5-1 (Julia M. Nowicki, absent) the Board determined that there is no probable cause to conclude that the Alderman under investigation may have violated the Ordinance, and dismissed the matter.

12. Case No. 12031.OLIG, Final Report

By a VOTE of 6-0 (Julia M. Nowicki, absent) the Board determined that there is probable cause to conclude that the Alderman under investigation violated the Ordinance, and directed staff to begin preparation of the required notice for hearing.

C. QUERY/CONSULT SUMMARY

13. Case No. 13029.CNS, Ongoing Litigation

On August 29, a judge in the small claims division of the Cook County Circuit Court granted the City's motion to dismiss this lawsuit, but granted the plaintiffs leave to refile it within 21 days. The case was brought by 43 members of the Fraternal Order of Police, seeking refunds of their \$20 late filing fee for filing their 2012 Statements of Financial Interests after May 31. On September 24, staff was informed that one of original plaintiffs has filed an amended lawsuit—identical in substance to the original—seeking restitution of his \$20 late filing fee.

14. Case No. 13043.Q, Post-Employment

The Board heard staff's report on an advisory opinion given to a former City employee under the Ordinance's post-employment restrictions. He was advised of the relevant one year, permanent, and two year lobbying prohibitions.

15. Case No. 13045.CNS, Lobbying

Staff reported that a lobbyist registered with the Board in early August 2013, listing one client and indicating that he had an oral lobbying contract. Staff then learned that this client publicly stated that it pays its lobbyists a standard fee pursuant to a written agreement. Accordingly, staff advised the lobbyist of this discrepancy and advised him that a material change like this requires him to amend his registration within 14 business days of the change, and that failure to do so would constitute a violation, subjecting him to suspension of his registration and/or fines. The lobbyist then timely amended his registration to reflect that his oral contract had been amended to a written contract, and made retroactive.

III. OTHER BUSINESS

None.

IV. NEW BUSINESS

C. SEMI-ANNUAL REVIEW OF THE CONFIDENTIALITY OF EXECUTIVE SESSION MINUTES UNDER THE ILLINOIS OPEN MEETINGS ACT

The Board VOTED 6-0 (Julia M. Nowicki, absent) to confirm that the Executive Session Minutes of the Board from August 1987 to August 2013 remain confidential, on the ground that the need for confidentiality still exists as to those minutes, with the exception of those that have already been made publicly available by vote of the Board.

At 5:34 p.m., the Board VOTED 6-0 (Julia M. Nowicki, absent) to adjourn the meeting.