

BOARD OF ETHICS
OPEN SESSION MINUTES

November 18, 2015, 3:36 p.m.
740 North Sedgwick, Suite 500

BOARD MEMBERS PRESENT

Stephen W. Beard, Chair
Russell F. Carlson
Frances R. Grossman
Dr. 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

Mary T. Carr

I. APPROVAL OF MINUTES

The Board VOTED 4-0 (Mary T. Carr, absent) to approve the Open Session Minutes of the October 21, 2015 meeting, as amended.

II. CHAIR'S REPORT

Deferred.

III. EXECUTIVE DIRECTOR'S REPORT

A. Education-Classes

Staff's work with the Department of Innovation & Technology to replace the system for scheduling people for 4-year classes is now in the testing phase. The goal is to have the new system running in January 2016. It will save time and money by utilizing emails for all correspondence, except with respect to enforcement matters.

Since the last Board meeting, 38 employees and employees have attended classes, that were held on October 22, October 29, November 6, and November 17. Trainings are scheduled for November 20 and December 1 and 17.

B. On-line Training

The 2015-2016 lobbyist program is being finalized and will be posted very soon.

To date, 29,937 employees and 15 aldermen have completed the 2015 mandatory education program. This is a City-wide compliance rate of 93%. The deadline for completion is

December 31, 2015. Staff is working closely with ethics officers from every department and aldermanic office that has not reached 100% compliance, to ensure maximum compliance by the year-end deadline.

C. Website Modifications, New Gift Brochure

The link to brochures and information regarding the recently passed election cycle was replaced by a link and icon to all educational brochures, covering 17 different topics. Since the last Board meeting, we have also published the 2015 Guide on Gifts.

D. Legislative Inspector General—Transition Period

With the coordination of the City Council, Mayor's Office and Law Department, the one City employee who was working for the Office of Legislative Inspector General is temporarily occupying an office in our suite. She will continue to close out any ongoing matters, and receive mail, phone calls and emails. The City is making an announcement about this, to help with continuity until that office's duties and responsibilities are transferred to the appropriate person.

E. Proposal Submitted at Today's City Council Meeting

I have in hand and am passing out copies of the proposal submitted earlier today by several aldermen, to place the new Legislative Inspector General's Office on a par with the Office of Inspector General. I anticipate that we will be asked for our comments and suggestions as to this proposal and as to the general topic of who should be authorized to investigate complaints against City Council members and staff.

F. Ongoing Investigative Record

We continue to post on the Board's website the ongoing investigative record, showing the status of every completed investigative report brought to the Board by both inspectors general since January 1, 2012, and the status of every petition to commence an investigation brought to the Board by the Legislative Inspector General. We update it monthly. It is consistent with the Ordinance's confidentiality provisions.

G. Legislative Inspector Cases

As has been widely reported in the media in the past few days, "a report from the ... Office of the Legislative Inspector General conclude[d] that 29 aldermen took in a total of \$282,000 in illegal campaign donations in 2013. The donations, ranging anywhere from \$500 to in excess of \$50,000, were found to have violated the city's ethics ordinance, according to Legislative Inspector General Faisal Khan."

However, no such report, nor any petitions for findings of probable cause, have been submitted to the Board of Ethics. Moreover the Office of the Legislative Inspector General has closed and its files have been sealed. The Board of Ethics has thus been unable to consider or determine whether any elected official, candidate, or contributor actually violated the Ordinance, and does not know whether any excess contributions were returned by the official's or candidate's committee to the contributor within the 10 day grace period provided for in the Ordinance (a timely return of the excess amount means that "the person shall not be deemed in violation" of that section of the Ordinance).

All remaining matters that, to the Board's knowledge, were being investigated by the Office of the Legislative Inspector General, are summarized in the publicly-available investigative record (which is subject to the Ordinance's confidentiality requirements). That record shows that: (i) two (2) cases were referred to law enforcement agencies in June/July 2012; and (ii) the Office of the Legislative Inspector General had 28 ongoing non-campaign financing investigations as of November 16.

H. Lobbyists-Regulation and Enforcement

Currently, there are 582 lobbyists registered for 2015, and the Board has collected \$331,726 in lobbyists' registration fees. Third Quarter Activity Reports were due by October 20. Forty-two lobbyists were late, but filed by the end of the 10-day grace period provided in the Ordinance thereby avoiding fines of \$1,000 per day and determinations that they violated the Ordinance.

I. Lobbyists-Inspector General Audit

The auditing personnel in the IG's office met with staff on June 11, and are nearing completion of their tentative audit report. They presented their preliminary conclusions. Some included helpful suggestions, others would appear to require amendments to the Ordinance, and still others appear to be based on a reading of the Ordinance with which Board staff simply disagrees. We believe the tentative report will be released in November; the Board will then be afforded 30 days to respond.

J. New Dataset on the City's Data Portal

All aldermanic disclosures are now posted on the City's central data portal, and are sortable by filer, data, and matter. This is done through Socrata. The disclosures have long been posted on our Board website as well.

K. International Fellow, U.S. State Department

From October 12 to November 6, through the U.S. Department of State's Professional Fellows Program, we hosted Anar Mirzayev, a Senior Consultant with the Civil Service Commission under the President of the Republic of Azerbaijan. He and our Deputy Director

submitted a proposal to the State Department regarding implementation of on-line and face-to-face ethics education in Azerbaijan.

L. Advisory Opinions

Since the October 21 meeting, the agency has issued 328 confidential informal advisory opinions (in addition to those formal opinions issued or approved by the Board).

- The leading categories in this period (in descending order) were: travel, campaign financing, post-employment, political activity, lobbying, and outside board service/use of City property/fundraising.
- 60% were from City employees in administrative or management positions, 20% from non-administrative/managerial employees, 5% from lobbyists, 5% from department heads, 8% from City elected officials (or aides calling on their behalf), and the rest from City appointed officials, City “sister” agencies, and members of the public, vendors, and the media.
- 50% came via email; 49% via telephone; the remainder via walk-ins.
- Requests came from employees or officials from nearly every City department (including the City Council), with the most numerous ones, in descending order, coming from employees or officials in: City Council, Law Department, Office of the Mayor, Chicago Public Library, Public Health, Police, and Cultural Affairs and Special Events.

We are using 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. It was developed without additional cost to the City or the Board.

M. Integrity Monitoring RFQ

The Department of Procurement Services is in the process of considering responses to a Request for Qualifications (“RFQ”) for Integrity Monitoring. Lisa Eilers, our Deputy, is a member of the RFQ evaluation committee. Proposals were due July 20, the evaluation process was completed, and a list of approved monitors compiled. An integrity monitor – also known as an Independent Private Sector Inspector General or IPSIG, is an independent, private sector firm with legal, auditing, investigative, and loss prevention skills, employed by an organization (voluntarily or by compulsory process) to ensure compliance with relevant law and regulations and to deter, prevent, uncover and report unethical and illegal conduct by, within and against the organization.

The RFQ was issued at the behest of the Inspector General.

N. 2015 Council on Government Ethics Laws Annual Conference

Staff members will attend the 37th Annual Conference of COGEL this year, in Boston, from December 6-9. The Executive Director will be a presenter at the annual "Ethics Update," which summarizes key developments in organizational, substantive legal developments in the past year (including advisory opinions, enforcement actions, and statutory changes).

O. New Board Member Nominee

New Board member nominees were announced by the Mayor on July 7, but one of them was subsequently nominated for a different Board. The nomination of the remaining proposed appointee, Zaid Abdul-Aleem, was submitted to the City Council at its first October meeting, and we now are hopeful that he will be confirmed by the Rules and Ethics Committee and then the full Council in time for the Board's December meeting. We will still have one vacancy, the filling of which the Executive Director has discussed with the Mayor's Office.

P. Freedom of Information Act

Since the last regularly scheduled Board meeting, the office has received 2 new requests under the Freedom of Information Act. For one request, the records were located and sent to the requestor. The other request was denied, on the basis that the information requested is exempt from disclosure.

IV. OLD BUSINESS

None

V. NEW BUSINESS

1. Semi-Annual Review of the Confidentiality of Executive Session Minutes Pursuant to the Illinois Open Meetings Act.

The Board VOTED 4-0 (Mary T. Carr, absent) to confirm that the Executive Session Minutes of the Board from August 1987 to October 21, 2015 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.

2. Public Notice of 2016 Board of Ethics Meeting Schedule

The Board considered staff's proposed **2016** schedule of regularly-scheduled Board of Ethics meetings. The Board then VOTED 4-0 (Mary T. Carr, absent) to approve the staff recommendation as follows:

January 20, Wednesday	July 20, Wednesday
February 17, Wednesday	August 17, Wednesday
March 16, Wednesday	September 14, Wednesday
April 13, Wednesday	October 19, Wednesday
May 18, Wednesday	November 16, Wednesday
June 15, Wednesday	December 14, Wednesday

All meetings will be held at 3:00 p.m. at the Board of Ethics, 740 North Sedgwick, Suite 500, Chicago, Illinois 60654.

The Board VOTED 4-0 (Mary T. Carr, absent) to adjourn into Executive Session at 3:38 p.m. 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; and (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 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 4:33 p.m., the Board VOTED 4-0 (Mary T. Carr, absent) to reconvene into open session.

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

I. APPROVAL OF EXECUTIVE SESSION MINUTES IN OPEN SESSION

The Board approved the Executive Session minutes of the October 21, 2015 meeting by a VOTE of 4-0 (Mary T. Carr, absent).

II. CASES

A. Query/Consult/Informal Advisory Opinion Summaries

In this case, the Board confirmed that it had heard staff's report.

1. Case No. 151696.Q, Outside Employment

On November 2, a City elected official asked how the Governmental Ethics Ordinance might prohibit or restrict service as a member of an honorary host

committee for a fundraising event for a church. On November 5, the official was advised that, although nothing in the Ordinance prohibits this service:

1. The official should seek counsel as to whether there may be a provision in the City's Municipal Code or in Illinois state law that would prohibit the official from becoming affiliated, even on a volunteer basis, with the board of a religious institution.
2. The official owes a fiduciary duty to the City, meaning that, all official actions, and decisions must be, in the official's judgment, in the best interests of the City. And the official was advised, consistent with the aspirational code of conduct, and to avoid even the appearance of impropriety, to recuse from any matters, no matter how routine, that the church or its leadership may have before the official's office.
3. The official may not "represent" the church in any formal or informal transaction before any City department, agency, employee, or official (or be paid for such representation). In such actions or transactions, someone else would need to make such contact and represent the church—not the official.
4. The official may not use any City property in the course of working with, or to benefit, the church. Under Board of Ethics case law, the official was advised that the church may use the official's name as a member of the board, and may even have it prefaced by the term of address "The Honorable," but, out of an abundance of caution, the official should not allow the use of the official City title on any church publications, letterhead, websites, or other materials.
5. The official may not use or divulge any confidential or non-public information to benefit the church.
6. With respect to fundraising, the official may not solicit any gift or contribution on behalf the church, if: (i) the official knows that the prospective donor is seeking administrative or legislative action from the City; and (ii) the official is in a position to directly affect the outcome of that action. Merely having the official's name listed on letterhead (even with the honorific form of address "The Honorable" preceding it) does not constitute solicitation from a particular person in the way intended by the Ordinance, but the official was nonetheless advised, in order to avoid even the appearance of impropriety, to review the church's mailing lists for its fundraising solicitations prior to any mailing that would be on letterhead with the official's name on it, to ensure that it does not go to any person the official knows has matters pending before the official's City office.

B. Referred Complaint Report

In this case, the Board confirmed that it had heard staff's report.

2. Case No. 151697.C, No Jurisdiction

On November 5, 2015, the Executive Director received an email from a citizen, who identified himself as a member of a condominium association's Board of Directors. The citizen alleged misconduct in connection with inspections and permitting of a restaurant. That day, the Executive Director elected to treat the email as a complaint and, pursuant to §2-156-380(a) of the Ordinance, referred it to the Office of Inspector General for action it deems appropriate.

At 4:34 p.m., the Board VOTED 4-0 (Mary T. Carr, absent) to adjourn the meeting.