

# BOARD OF ETHICS

## OPEN SESSION MINUTES

February 17, 2016, 3:05 p.m.  
740 North Sedgwick, Suite 500

### **BOARD MEMBERS PRESENT**

Zaid Abdul-Aleem  
Russell F. Carlson  
Mary T. Carr  
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  
Pauilly Casillas, Staff Assistant

### **BOARD MEMBERS ABSENT**

Stephen W. Beard, Chair  
Frances R. Grossman

At the commencement of the meeting, the attendees elected Russell F. Carlson as Chair *pro tem*.

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

The Board VOTED 4-0 (Stephen W. Beard and Frances R. Grossman, absent) to approve the Open Session Minutes of the January 20, 2016 meeting, as amended.

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

None

### **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 done, and the system is up and running. It will save time and money by utilizing emails for all correspondence, except with respect to enforcement matters.

Staff finalized the script for all-new training videos, and is arranging for them to be produced through the Cable TV Office of the Department of Business Affairs and Consumer Protection.

Since the last Board meeting, 61 employees and officials have attended classes, that were held on January 21 and 28, and February 9, and for the 32<sup>nd</sup> Ward on January 21, the 17<sup>th</sup> Ward on January 29, and the 39<sup>th</sup> Ward on February 16. Staff will conduct regularly

scheduled classes on February 18, 23, March 10, and March 22, and specially requested classes for the City Clerk, on February 18<sup>th</sup> and 19<sup>th</sup>, for the 33<sup>rd</sup> Ward on February 18, for incoming SSA Commissioners and service providers on February 24, and for the 48<sup>th</sup> Ward on March 24<sup>th</sup>.

### **Other Presentations**

On January 25, the Executive Director conducted a seminar on government ethics to a group of visiting dignitaries from 11 countries in Africa, in conjunction with personnel from the Inspector General. The seminar was held at the request of World Chicago. On February 23, the Executive Director will make a presentation on the history of governmental ethics reform in Chicago to the Government Lawyers Committee of the Chicago Bar Association, and on March 8, make a presentation to a visiting delegation of anti-corruption officials from Croatia. On April 4, the Executive Director will meet with a group of business major undergraduates from Ohio Northern University to talk about ethics and leadership. On June 13, the Executive Director will make a presentation to attorneys and staff from the law firm of Linebarger, Goggan, which has been a vendor of the Law Department from time to time, specializing in debt collection work.

### **On-line Training**

The 2015-2016 lobbyist program was posted and released. To date, 90 lobbyists have completed it. Their deadline is July 1, 2016. The all-employee/all aldermen versions are complete and will be posted by the end of February.

As of January 1, 2016, all but 32 City employees and officials (of the 31,650 scheduled) had completed the 2015 required annual ethics training. The names of all violators were posted to the website.

## **B. Website Modifications: New Lobbyist Data Set**

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.

A new data set presenting lobbyists' data in different ways was posted on February 3.

## **C. Advisory Opinions**

Since the last Board meeting, staff has issued 208 informal confidential advisory opinions, with the leading categories being, (in descending order): travel, gifts, post-employment, conflicts of interests, campaign financing, and outside board service. The leading City departments from which requesters came in this period were (in descending order): City Council; Department of Planning & Development (DPD); Department of Aviation; Mayor's Office; Chicago Police Department (concerning travel); Chicago Public Library; Department of Public Health.

**D. Status: Legislative Inspector General**

As was widely reported, the City Council passed an ordinance abolishing the Office of Legislative Inspector General (LIG) and transferring to the Office of Inspector General (IG) the authority to investigate City Council members, their staff and their contractors for misconduct (as defined in the law to include violation of any rule, law, statute, ordinance or policy that affects them in the performance of their official duties), without requiring an approval from the Board of Ethics to commence any investigation. Having been in this business since 1993, I view this as historic, despite the fact that, as was also widely reported, the ordinance does not grant the IG authority to conduct program or other audits of operations of the City Council. I will discuss in closed session the specifics of this legislation and how it may affect the Board of Ethics. It becomes effective on the earlier of: (i) the date on which the Mayor signs it; or (ii) the next City Council meeting, scheduled for March 16, 2016.

**E. Ongoing Investigative Record**

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 IG (a total of 2 since July 1, 2013, including one scheduled for the closed session of today's meeting) and the former Office of the Legislative Inspector General, 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 monthly, consistent with the Ordinance's confidentiality provisions.

**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, under current law, the person is advised that he or she may self-report to the appropriate inspector general or, if he or she fails to do so within two weeks, the Board, must make that report. There were no such instances since the last Board meeting.

Since the time this provision became effective, the Board has advised three (3) aldermen, one (1) aldermanic staffer, and two (2) department heads or former department heads that their past conduct violated the Ordinance. In 3 of these 5 cases, one involving an alderman, the second an aldermanic staffer, and the third a department head, the Board concluded that the apparent violations were *not* minor, and the individuals self-reported themselves to the appropriate Inspector General. To date, we have received no reports of commenced investigations (in the case of the former LIG) or completed investigations (from either the IG or LIG) of any of these matters. In the other cases, the Board sent confidential letters of admonition, as required by Ordinance.

**G. 2016 Statements of Financial Interests**

On March 1, 2016, approximately 3,500 employees and officials will be notified via email of their requirement to file 2016 Statements of Financial Interests. About 75% will file electronically, using the Board's "EFIS" program. The Board has advised every department and Aldermanic office and the Office of Legislative Counsel and Government Affairs of the criteria for who must file in 2016, and requested that each of them update their records in the appropriate databases so that all required filers receive notice on March 1, 2016. We will again work closely with ethics liaisons in every department and office to strive toward our goal of no late filers.

**H. Lobbyists-Regulation and Enforcement**

As of today, there are 544 lobbyists registered, and the agency had collected \$271,575 in registration fees. This figure represents about 30% of our operating budget. However, there is a technical problem with the payment engine of our Electronic Lobbyist System (ELF), and to date, the amount actually deposited with the Department of Finance is \$63,000. We are working to resolve the issue so that the remaining collected fees can be deposited and credited to the City.

As required by law, on January 25, 2016 staff sent 118 certified/regular/email probable cause letters to lobbyists late in filing their re-registration or termination, or paying for re-registration. All but three (3) *timely* filed, and were determined to have violated the Ordinance, and assessed fines, respectively, of: \$4,000; \$2,000; and \$1,000. As required by July 2015 amendments to the Ordinance, their names and violations will be made public.

On February 10, 2016 staff sent one (1) certified/regular/email probable cause letter to one (1) lobbyist who had not filed his activity report. That lobbyist filed prior to being determined to have violated the Ordinance.

Please also note that the Office of the Chief Information Officer of Boston has requested our assistance in establishing a lobbyist registration system, as that City's charter is being amended to require lobbyists to register.

**I. Lobbyists—IG Audit**

On January 22, 2016, staff submitted the Board's written response to the IG to its draft audit report. To date, we have not been informed by the IG of how it plans to proceed.

**J. Recent Public Financing Legislation Submitted to City Council**

At the January 13, 2016 City Council meeting, four aldermen (Arena, Harris, J. Moore and Pawar) submitted a proposal that was referred to the Council's Rules & Ethics Committee. The proposal is denoted "The Fair Election Ordinance," and, if enacted, would implement a system of public financing of City elections, modeled somewhat after the system in place in New York City. Board staff was asked to comment on it by and to the Mayor's Office. In its

responses, staff noted that the funding sources did not seem feasible, and proposed that a working group be convened to conduct further research into relevant constitutional and implementation issues, and whether and how the Governmental Ethics Ordinance would need to be amended. Coincidentally, several days after the Board submitted its commentary, the Chicago Tribune's editorial board made similar comments in an editorial.

**K. Federal Corruption Trial**

As was widely reported, John Bills, a former Deputy Commissioner in the Department of Transportation, was convicted last month in federal court on multiple corruption charges. On January 21, 2016, Richard Superfine, the Board's Legal Counsel, testified at the trial upon subpoena from the Government as to Statements of Financial Interests that Bills had filed with the Board from 2004-2009, how Bills responded, and what the Ordinance requires be disclosed. I am proud that the Board was able to assist the Government in this matter.

**L. Freedom of Information Act**

Since the last regularly scheduled Board meeting, the office has received no new requests under the Freedom of Information Act. This happens about once in every 24 months.

**IV. OLD BUSINESS**

1. Status Report on legislation regarding the authority to investigate City Council. The Executive Director noted that, in closed session, he would describe in greater detail how the legislation approved by the City Council at its February 10, 2016 meeting is historic, and would likely affect the Board of Ethics, and whether the Board may see any increase in completed investigations of alleged Governmental Ethics Ordinance violations presented to it by the Office of Inspector General.
2. Status Report on ongoing enforcement matter, Case No. 13039.OLIG.

Staff explained that the matter is before an administrative hearing officer. At the request of the administrative hearing officer, staff confirmed the Board's procedure for its issuance of subpoenas pursuant to §2-156-380(c) of the Ordinance.

These matters will be discussed in executive session.

**VI. NEW BUSINESS**

None

The Board VOTED 4-0 (Stephen W. Beard and Fran R. Grossman, absent) to adjourn into Executive Session at 3:10 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 Sections 2-156-385 and -392, and the Board's Rules and Regulations, 4., 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 3:58 p.m., the Board VOTED 4-0 (Stephen W. Beard and Fran R. Grossman, 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 January 20, 2016 meeting by a VOTE of 4-0 (Stephen W. Beard and Fran R. Grossman, absent).

### **III. CASES**

#### **A. Office of Inspector General**

Review of Proposed Settlement Agreement Regarding Ongoing Enforcement Matter from Inspector General

##### **1. Case No. 151695.IG, Statement of Financial Interests**

Staff reported that, following the Board's determination at its January 20, 2016 meeting that there was probable cause to believe that a City employee violated the Ethics Ordinance by knowingly filing a false or misleading Statement of Financial Interests in 2014, it began settlement talks with the subject's legal counsel, who agreed to discuss settlement terms with his client and determine whether he would prefer to schedule a §2-156-385 Subject Meeting for an upcoming Board meeting.

#### **B. Formal Advisory Opinion Request for Reconsideration**

##### **2. Case No. 151698.A, Post-Employment**

Staff reported that on January 21, 2016, it received an employee's request for reconsideration of the Board's January 20, 2016 opinion. In his request, the employee asserted that the Board's finding as to the Ordinance's one (1) year "subject matter" prohibition was in error. Staff presented a draft response to the employee, reiterating and providing additional support from other jurisdictions' ethics laws for the determinations made in the January 20 advisory opinion, and addressing and refuting the employee's arguments.

The Board VOTED 4-0 (Stephen W. Beard and Fran R. Grossman, absent) to deny the request and direct Staff to inform the employee in writing, accordingly.

**C. Query Consult Summaries**

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

**3. Case No. 16004.Q. Post-Employment**

A city employee contacted the Board via email on January 11, 2016 to ask whether and how the Ordinance will restrict him in his imminent post-City position as the Financial Controller for a private employer. Board staff advised him on January 28, in writing, that the Ordinance does not prohibit him from accepting the Financial Controller position, but that it does impose certain restrictions on his activities. He was advised that, pursuant to §2-156-100(b) of the Ordinance, the employee would be subject to a one-year "subject matter" prohibition involving the processing of invoices by his City department, but that he is not subject to the permanent prohibition as to his new employer's City contract, because he did not exercise contract management authority over it.

At 4:35 p.m., the Board VOTED 4-0 (Stephen W. Beard and Fran R. Grossman, absent) to adjourn the meeting.