

BOARD OF ETHICS
OPEN SESSION MINUTES

August 17, 2016, 3:33 p.m.
740 North Sedgwick, Suite 500

BOARD MEMBERS PRESENT

Stephen W. Beard, Chair
Zaid Abdul-Aleem
Russell F. Carlson
Mary T. Carr
Frances R. Grossman

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
Paully Casillas, Staff Assistant

BOARD MEMBERS NOT IN ATTENDANCE

Nancy C. Andrade
Dr. Daisy S. Lezama

I. APPROVAL OF MINUTES

The Board VOTED 5-0 (Nancy C. Andrade and Dr. Daisy S. Lezama, absent) to approve the Open Session Minutes of the July 27, 2016, 2016 meeting.

II. CHAIR'S REPORT

None

III. EXECUTIVE DIRECTOR'S REPORT

A. Education

Classes and Other Presentations

Since the last Board meeting, 57 employees and 1 alderman have attended classes that were held on August 4, 11 and 15, including one for Committee on Finance employees and the Chair of the Committee. 123 employees are scheduled to attend classes here on August 18 and 23, and September 8, 15 and 22.

The Executive Director made a presentation last night, August 16, at Northwestern Law School, regarding his service for the U.S. State Department in the Republic of Georgia in June 2012. The program was sponsored by World Chicago.

Staff will conduct a seminar for Senior Staff of the Department of Buildings, on September 14, at the request of the Commissioner, made in response to an Inspector General investigation.

On October 6, the Executive Director will conduct a 90 minute seminar for the Police Superintendent and all Deputy Superintendents of the Chicago Police Department, at Police Headquarters.

On-line Training

To date, 21,413 employees and 4 aldermen have completed the 2016 version of the on-line mandatory ethics training course, and 120 are in progress. There are currently 31,467 scheduled, but this number will continue to decrease over the rest of 2016.

New Educational Materials

The Board posted two (2) new PowerPoint educational programs on its website, and the Department of Human Resources is placing the first one in the packets of newly hired City employees, with a certification that they have completed it. Departmental and Aldermanic ethics officers are assisting us in having departing employees and officials complete the second one, which covers the Ordinance's post-employment/revolving door restrictions. To date, our records show that 171 have completed the new employee program, and 66 have completed the departing employee program.

B. Advisory Opinions

Since the last Board meeting on July 27, staff has issued 277 informal and no formal confidential advisory opinions. During this time, the leading categories have been, in descending order: gifts, travel, campaign financing, post-employment, lobbying, political activity, and outside board service. The leading City departments from which requesters came in this period were (in descending order): City Council; Mayor's Office; Department of Law; Chicago Police Department; Chicago Public Library; Department of Public Health; Department of Aviation; and the Office of Inspector General.

C. Website Modifications/Advisory Opinions

Staff has completed the posting (in redacted form, per the Ordinance's confidentiality requirements) and indexing on its website **every** formal written advisory opinion issued by the Board or issued by the staff and reported to or approved by the Board since the agency's inception in 1986. This is a total of 1,004 distinct opinions, covering nearly every topic under the Ordinance (many covering more than one).

The phase after this will be to publish reports of the investigations conducted by the Board of alleged violations of the Governmental Ethics Ordinance (not of the former Campaign Financing Ordinance) between 1987 and 2013 – the investigations themselves are confidential, but the Board is authorized to (and has in the past) publish summary reports of its investigations, findings and recommendations. There are approximately 45 of these.

Staff continues to work on the on-line search engine and database, searchable by keyword for each of these cases, that will include a link to the case's text, a summary of the holding of each case, and another column showing the keywords for that case. It is based on the

programs used by the New York City Conflicts of Interests Board and the Philadelphia Board of Ethics.

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 Inspector General ("IG") (a total of 2 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 regularly, consistent with the Ordinance's confidentiality provisions.

F. Campaign Financing Matters

Please note that today, staff is requesting that the Board approve and direct staff to file, as provided by §2-145-380(n-1) of the Ordinance, 2,149 complaints with the Office of the Inspector General, alleging potential violations of the campaign contribution limitations of the Article VI of the Ordinance.

Staff is concerned that, since the Board began referring such complaints (now totaling more than 4,000, including those to be discussed today, from 2013, 2014, and 2015), to both the Office of the Inspector General and the former Legislative Inspector General (this provision of the Governmental Ethics Ordinance took effect on September 10, 2014), **not one single completed investigation has ever been returned to the Board for a finding of probable cause and possible settlement or adjudication.** As we have noted, the former Legislative Inspector claimed in a public statement that various aldermen had violated this law, immediately prior to that Office being closed (and then again, last month, as the head of "Project Six"), but in fact no completed investigations have ever been turned into this agency, so no legally valid findings have ever been made. And, as mentioned above, the Office of Inspector General has neither referred a completed investigation to this office, nor commented on the progress or disposition of any campaign financing investigations ever commenced. There will be more on this in closed session.

As this Board has stated publicly, we have viewed our mandate as one in which we review records of campaign contributions filed publicly with the Illinois State Board of Elections, and lobbyists' activity reports filed with us, to identify all contributors who have contributed in excess of \$1,500 to any single candidate for elected City office (or, more accurately, to their candidate committees), and refer this raw list of potential violations to the IG (and previously to the LIG for City Council positions). We interpret §2-156-380(n-1) of the Ordinance, enacted September 10, 2014, as prohibiting us from culling any contributors from that list, as that constitutes an investigation, which, by Ordinance, we cannot undertake. This agency did in fact initiate and conduct these investigations, up until July 1, 2013, when that authority was transferred to the respective inspectors general.

Whether this enforcement structure continues to be in the City's best interests will be discussed further in Executive Session.

G. 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 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 former department head, the Board concluded that the apparent violations were *not* minor or technical, and the individuals self-reported to the respective 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.

H. 2016 Statements of Financial Interests

On March 1, 2016, 3,575 employees and officials were notified via email of their requirement to file 2016 Statements of Financial Interests. The deadline for these employees and officials to file was May 31, 2016, at 11:59:59 pm. As of June 1, all but 130 had filed. 79 of these individuals were determined to have violated the Ordinance (they failed to rebut the finding of probable cause to conclude that they had violated the Ordinance), and 8 became subject to fines, per the Ordinance. There remain 6 who have not yet filed, and to date, the Board has collected \$1,025 in fines. On July 26, the Board referred four (4) cases of those who have not paid their fine to the Law Department for collection; one (1) of those has settled. As required by Ordinance, on June 23, 2016 the names of every violator was published on the Board's website, and those who accrued fines were noted as well.

Departments have reported back on what disciplinary measures they have taken with respect to each violator.

I. Lobbyists-Regulation and Enforcement

As of today, there are 599 lobbyists registered, and the Board has collected \$316,650 in registration fees. This figure represents about 40% of our operating budget.

Quarterly activity reports were due from lobbyists on July 20, 2016. Reminder notices were sent on June 30. 46 missed the filing deadline. Pursuant to §2-156-270, we sent letters on July 22, 2016 to those who had still not filed – 43 – giving them their legislative 10-day

notice of late filing, thus giving them ten days in which to file or they would be considered in violation of the Ordinance and, thereafter, would be sent a due process letter stating that probable cause had been found that they were in violation of the Ordinance. Four (4) due process letters dated August 11, 2016 were sent to those lobbyists who had not completed proper filing. The due date to respond to this agency by properly filing or explaining late filing is August 22, 2016. Three (3) have filed and are thus in compliance. One lobbyist has not responded. If the lobbyist does not properly respond, he will be found not to have overcome the Executive Director's probable cause finding and fined \$1,000 per day until he properly files. His name and fine will be published on our website for 90 days.

L. Freedom of Information Act

Since the last regularly scheduled Board meeting, the office received 4 new requests under the Freedom of Information Act. One appeared to be a commercial request for our records of our "unliquidated" obligations, such as, unpaid checks; the requestor was told that we located no such records. The second was for information on why a department did not acknowledge a crime regarding a minor; the requestor was advised that the Board of Ethics is not the correct department to address such a request to. The third was for aldermanic statements of financial interests between 2005 and 2012 -- the requestor was provided a link to the City's Clerk's website where such "older" statements were filed (and advised that our website has all forms filed in 2013 and after). The fourth was for disclosures filed by City Council members documenting matters from which they must recuse themselves from voting; the requestor was provided a link to our website where all such disclosures are posted.

IV. OLD BUSINESS

None

VI. NEW BUSINESS

None

The Board VOTED 5-0 (Nancy C. Andrade and Dr. Daisy S. Lezama, absent) to adjourn into Executive Session at 3:34 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 4:37 p.m., the Board VOTED 5-0 (Nancy C. Andrade and Dr. Daisy S. Lezama, 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 July 27, 2016 meeting by a VOTE of 5-0 (Nancy C. Andrade and Dr. Daisy S. Lezama, absent).

II. CASES

A. Campaign Financing

1. Case Nos. 16025.01.CFr, et seq., Review of Complaint to Office of Inspector General setting forth potential violations with respect to excessive political contributions under §2-156-445 of the Ordinance, as required pursuant to §2-156-380(n-1) of the Ordinance.

B. Referred Complaints Report

The Board heard staff's presentation on this matter.

2. Case No. 16026.C, Statement of Financial Interests

Staff reported receiving a complaint alleging that a City employee filed misleading or incorrect information on the 2016 Statement of Financial Interests ("FIS") form. Since the Board had no jurisdiction, we referred the complaint to the Office of Inspector General for action as it deems appropriate and included a copy of the employee's 2016 FIS form.

III. OLD BUSINESS

None

IV. NEW BUSINESS

None

V. OTHER BUSINESS

3. Pending Case List

At 4:38 p.m., the Board VOTED 5-0 (Nancy C. Andrade and Dr. Daisy S. Lezama, absent) to adjourn the meeting.