

BOARD OF ETHICS

OPEN SESSION MINUTES **NOVEMBER 16, 2018, 12:09 P.M.** 740 North Sedgwick, Suite 500

BOARD MEMBERS PRESENT

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

STAFF PRESENT

Steven I. Berlin, Executive Director
Lisa S. Eilers, Deputy Director
Richard Superfine, Legal Counsel
Ana Collazo, Attorney/Investigator
Edward Primer, Program Director
Paully Casillas, Staff Administrator

BOARD MEMBERS ABSENT

Nancy C. Andrade
Dr. Daisy S. Lezama

GUESTS PRESENT

Rebecca Stoner, City Bureau
Daniel Wolk, City Bureau

The guests, Board and staff introduced themselves.

I. APPROVAL OF MINUTES

The Board VOTED 4-0 (Nancy C. Andrade and Dr. Daisy S. Lezama, absent) to approve the open session minutes of the Board's meeting of October 19, 2018.

II. CHAIR'S REPORT

The Chair announced that Stephen W. Beard had tendered his resignation from the Board effective November 1, after having served as Chair from November 2012 through September 2016, and as a Board member from September 2016 through October 2018. The Chair praised Mr. Beard's judgment, clear thinking, dedication to the Board and its work, and keen insights over the years. Because of his increased time commitments in his new job, and his desire to work on behalf of an old friend who is a candidate for alderman, Mr. Beard announced his resignation. (Under the Ordinance, Board members are prohibited from engaging in political activity.) On behalf of the entire Board, the Chair wished Mr. Beard well in all his endeavors.

III. EXECUTIVE DIRECTOR'S REPORT

A. Departed Board Member and Former Chair

On behalf of the entire staff, I want to thank former Chair and member Stephen W. Beard, who submitted his resignation from the Board several weeks ago, for his dedicated six (6) full years of service to the Board of Ethics and to the people of Chicago.

His wisdom, leadership, insights, and good humor will be missed. We wish him the best in his career.

B. Education

Classes and Other Presentations

Since the Board's last regularly scheduled meeting, 51 employees and five (5) aldermen attended classes here on October 25 and November 8.

106 are scheduled for classes on November 20 and 29 and December 4 and 13.

All Board classes cover sexual harassment.

On October 26, at the request of the Commissioner of the Department of Buildings, staff presented a 30 minute class to all Building Inspectors, at the Plumbers' Hall.

On October 29, staff presented two classes: the first to a visiting delegation of 19 media and NGO professionals and anti-corruption officials from 15 countries in Africa (Benin, Burkina Faso, Cote d'Ivoire, Djibouti, Gabon, Guinea, Kenya, Mali, Niger, Nigeria, Senegal, Tunisia, Uganda, Zambia, and Zimbabwe), at the request of the State Department and World Chicago; the second, an evening class to Master's Degree students at the University of Chicago's Center for Health and Social Sciences, on Ethical Leadership in Public Service.

On January 7, 2019, staff will make a 60 minute presentation to all employees in the Civilian Office of Police Accountability (COPA), at the request of its Director.

On-line Training

For City Employees

To date, 28,659 employees have completed the annual 2018 on-line training program, which also includes a unit on sexual harassment (drafted by our colleagues in the City's Department of Human Resources). This is about 92% of the total number scheduled. 56 are in progress. Please note that Board staff is in weekly contact with ethics officers and training administrators from every ward office, City Council committee, and executive department that has not yet achieved 100% compliance. It is our goal to have zero training violations this year. The deadline is 11:59:59 p.m. on December 31, 2018.

For aldermen

To date, 16 aldermen have completed their training. Please note that, on June 29, two reporters viewed the training, with particular attention to the unit on sexual harassment.

For appointed officials

We are finalizing a PowerPoint for all appointed officials, including members of this Board. Currently the sexual harassment section is being reviewed by the Department of Human Resources, which is revising the City's EEO Policy, and may include appointed officials within its ambit. When the program is completed, we will email it to all appointed officials, and have them complete it, with the assistance of the Office of Legislative Counsel and Government Affairs (which is responsible for coordinating the appointments of all Mayoral appointees/appointed officials).

For lobbyists

While the 2017-2018 lobbyist training cycle was completed on July 1, 2018, we are working on the 2018-2019 training program, and I'm pleased to report that several lobbyists requested and were provided with soft copies of the last training, because they said it was so helpful.

C. City Council Educational Initiative/Handbook

In conjunction with the Law Department, IG, and members of the City Council, including representatives from its various caucuses, the Board met January 16, February 27, March 27, April 16, and May 21 to work on a "handbook" that will address and provide guidance on certain issues common to aldermen and their staff; these include some ethics ordinance issues. The Board, Law Department, and IG are acting under the guidance of the City Council on this project, in an effort to identify and promote various best practices. The Board submitted its extensive comments and entries on August 8, and the Law Department submitted its comments after that. However, the version to be produced is currently in the hands of the IG for any additions it intends to make. The latest draft was circulated on November 9. Aldermanic briefings are scheduled for December 4, and Board staff will play an active role in these, since a good percentage of the handbook's content was drafted by Board staff.

D. Council on Governmental Ethics Laws ("COGEL")

The 2018 annual conference will be in Philadelphia in December, but the 2019 annual conference will be here in Chicago, at the Michigan Avenue Marriott in early December of that year. We will work closely with the Mayor's Office, City Council, and Budget Office to ensure a successful conference. We expect about 450 ethics, campaign financing, lobbying, freedom of information, and election administration officials from across the U.S. and Canada to attend, plus private practitioners and academics. We will serve on the conference's program committee, and will be reaching out to various local officials and media personnel to serve on panel discussions.

Deputy Lisa Eilers and I will attend the Philadelphia conference, and I will be a presenter on three (3) panels and a moderator on a fourth. The panels on which I will be a presenter are: (i) the Ethics Updates I and II, which covers developments across North America in the areas of conflicts of interests, revolving door, sexual harassment, gifts, etc., including legislative changes, advisory opinions, significant enforcement actions, and organizational or budgetary changes, and the imminent creation of ethics commissions in New Mexico and North Dakota, pursuant to citizen ballot referenda; (ii) the Lobbying Update II, which will cover statutory and case law developments in the big cities; and (iii) I will moderate a panel on best practices for preventing sexual harassment within government agencies.

Also, please note that, as a member of COGEL's Steering Committee, I am eligible to be elected COGEL's President for a one-year term that would begin in December 2019, at the Chicago annual meeting. The election will be held by the full committee on December 12.

E. Executive Editorship – Public Integrity/Guardian issue

I am a member of the Executive Editorial Board of the journal Public Integrity, which is affiliated with the American Society for Public Administration. It is published by Taylor & Francis six (6) times a year. We are in the midst of a joint project between this journal and the COGEL Guardian to bridge gaps between academics and practitioners.

The third edition of the 2018 COGEL Guardian was published yesterday, November 15. I am its editor, and head of COGEL's Publications Committee.

F. Sister Agency Ethics Officers

We met on September 18 with our ethics counterparts at other local governmental agencies: the Cook County Board of Ethics and the Ethics Officers from the Chicago Public Schools, City Colleges of Chicago, and Chicago Housing Authority. Topics discussed were our respective gift laws, and political activity. Our next meeting will be held December 18.

G. 2019 Budget

We appeared before the City Council's Budget and Government Operation Committee on October 30. All questions posed to us related not to our agency's budget submission, but to: (i) what aldermen may post on "official" and "political" or "personal social media sites;" and (ii) the appropriate amount of "City-related business" that can be transacted at an alderman's political office. All of the questions relating to social media stemmed ultimately from a May 30, 2018 Memorandum sent to the Chair of the Council's Committee on Committees, Rules and Ethics by the Inspector General. Unfortunately, even though that Memorandum summarized guidance given by the Board of Ethics and its staff, we were never provided with a courtesy copy of it, and were not even aware of its existence until about 35 minutes prior to our budget hearing, when several aldermen provided it to us. Nonetheless, we fielded the questions, and those we could not answer will be addressed in the advisory opinion in Case No. 18035.A. That opinion will supersede any other pronouncements or advice by the Board or the IG in this area, and serve as a definitive statement of the law. We are consulting with colleagues in our fellow municipal ethics commissions, as the questions raised are generally not directly addressed by statute, and thus require interpretation of the Governmental Ethics Ordinance. This responsibility falls exclusively within the province of the Board of Ethics. Should the Board conclude that the Ordinance should be amended to address some of these issues, it will make its recommendations to the City Council and Mayor's office as and when appropriate, pursuant to §§2-156-380(f) and (g).

At the City Council meeting on November 14, the Mayor's budget proposal was approved. In it, our annual recommended appropriation was increased from \$833,803 in 2018 to \$866,882 in 2019, an increase of about 4%. The increase is due primarily to personnel costs, but we have a \$5,000 line item for new educational software. We were of course able to slash our travel budget by 80% because the 2019 COGEL Conference will be here in Chicago.

H. 2018 Statements of Financial Interests

On March 1, notices to 3,727 City employees and officials went out via email and U.S. first class mail advising them of the requirement to file 2018 Statements of Financial Interests before June 1. This includes 47 identified individuals who fall into the definition in the Ordinance of “City Council employee” even though they are paid as independent contractors. To date, all have filed. However, we determined that 30 employees and officials failed to file by the deadline, after notifying them of their apparent violation and affording them an opportunity to explain why they were late. We posted the names of all 30 violators on our website, and imposed fines as appropriate.

Forms are posted on our website as soon as they are processed by staff – our goal is to have all filed forms posted within 24 hours of when they are filed. Once posted, they reside on the Board’s website for seven (7) years from the date of filing, after which they are removed and destroyed, pursuant to the Board’s Document Retention Schedule kept with the Illinois Secretary of State and Local Records Commission of Cook County.

I. Candidates’ Statements of Financial Interests

Pursuant to §2-156-150(d)(iii), each person who qualifies as a candidate for elected City office must file a Statement of Financial Interests with the Board within five (5) days after so qualifying. By following media reports – particularly those by thedailyline.com – Board staff tracks and notifies each candidate in writing of the filing requirement. To date, 149 known qualified candidates (not including incumbents) for the February 2019 Consolidated Municipal Election have been notified to file, and 142 have done so. We post all filed Statements on our website. Two (2) candidates were found in violation of the Ordinance for failure to file by their deadline, and were fined \$250 and \$500, respectively. Their names and violations were posted on our website.

I again want to acknowledge here the fine work of the reporters at thedailyline.com, who enable us to contact newly declared candidates as they are reported, thereby enabling us to make candidates’ information publicly available to the electorate.

Note: incumbents and current City employees and officials also must file, but their forms are posted and searchable through a different page, and their deadline was before June 1, 2018.

J. Advisory Opinions

Since the Board’s last meeting on October 19, we have issued 377 informal advisory opinions. The leading categories were, in descending order: travel; political activity; campaign financing; gifts; post-employment; outside employment; and outside volunteer service. The leading City departments from which requesters came in this period were (in descending order): Chicago Police Department; Mayor’s Office; City Council; Chicago Public Library; Office of Inspector General; and Department of Law.

There is one (1) formal opinion on the agenda for today’s meeting, but staff is continuing its research on the issues it will address.

Informal opinions are not made public but are logged, kept, and used for training and future advisory purposes. They form the basis for much of our annual and periodic educational programs. As is common among ethics commissioner in the U.S. and Canada, formal opinions are made public, in full text, with names and other identifying information redacted out.

K. Department Consultation

At the request of the department's Commissioner, the Board is working with the Department of Buildings to revise its internal conflicts of interests and gifts policy. Parts of that policy were revised several years ago as a result of an IG investigation, with input from the IG, but the department has noticed problems, is considering further revisions, and has asked us to provide expert advice.

L. Summary Index of Formal Advisory Opinions/Text of all Formal Advisory Opinions

Every formal Board opinion issued since 1986 is posted on the Board's website (902 of them), redacted in accordance with the Ordinance's confidentiality provisions. Redacted opinions are posted once issued by or reported to the Board. Further, summaries and keywords for each of these opinions are available on the Board's searchable index of opinions. Only a handful of 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.

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.

The Board makes public the names of all violators and penalties it assesses where authorized by law to do so. There have been, to date, 114 such matters – including one (1) on today's agenda – but only in those that occurred after July 1, 2013 can the Board release the names of those found to have violated the Governmental Ethics Ordinance.

The document makes clear that, despite comments made by some in the media over the last decade, the Board has been a robust enforcement agency, hardly a "do-nothing" agency. This continues through the Board's ongoing regulatory actions, described above, and with respect to lobbying and campaign financing, even though the Board no longer has investigative authority.

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

We post and continually update, on our website, an ongoing investigative record showing

the status of every completed investigative report brought to the Board by both the IG (a total of seven (7) 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. It is updated as appropriate, consistent with the Ordinance's confidentiality provisions.

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 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 investigations were commenced within two (2) 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 is unable to rebut the Board's *prima facie* probable cause finding, the Board may enter into a settlement agreement – all settlement agreements are made public – 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 his or her attorney. At the conclusion of the hearing, the ALJ submits his or her findings of fact and law to the Board, which can accept or reject them, based solely on the record of the hearing. The Board will then issue a public opinion in which it finds one or more violations of the Governmental Ethics Ordinance (or finds none), and impose appropriate fines.

While this process may appear cumbersome, it was added to the Ordinance and became effective on July 1, 2013, based on the specific recommendations of the Mayor's Ethics Reform Task Force in Part II of its 2012 Report. Its primary purpose is to balance due process for those investigated by the IG with accurate and precise adjudication by the Board of Ethics and the public's right to know of ethics violations.

Three (3) of these seven (7) IG matters remain pending:

Case No. 18012.IG (corresponding to IG Case #16-0240). On April 16, 2018, the IG presented the Board with its fifth completed investigation and petition for probable cause. At the Board's May 2018 meeting, it dismissed one part of the IG's petition but made a *prima facie* finding of probable cause in the other. The matter involves potential violations of the Ordinance's post-employment provisions by a former alderman (the Ordinance's post-employment provisions prohibit former aldermen from engaging in lobbying the City for one year after leaving office). The part of the case dismissed by the Board pertained to the alderman's job interviews with a potential post-City employer while that potential

employer had City matters pending. The Board found that there was no evidence in the IG's investigative record to show that the alderman acted on any matters involving the potential employer and that the employer had no matters pending before the alderman. The subject's attorneys were present at the July meeting. The Board continues to discuss potential settlement of this matter.

Case No. 18018.IG (corresponding to IG Case #16-0222, as reported in the IG's latest Quarterly Report), was presented to the Board by the IG on May 25, 2018. It involves a petition for probable cause based on an IG investigation into whether a City employee (the IG identified this employee as employed by the Chicago Police Department) had a prohibited financial interest in a City contract by virtue of owning 100% of a company that was named and paid as a subcontractor on a City contract for 6 years. At its June meeting, the Board considered the case, but could not find probable cause without a formal request for clarification as to when the IG commenced and completed its investigation. The Board sent its request on June 18, and also requested that, in all future investigations the IG clearly indicate the dates on which the investigations were commenced and concluded. The IG responded on June 27 and agreed to state the relevant investigation dates in its summary reports sent to the Board in future cases. The IG also explained that the date of a "Case Initiation Report" is the date it opens a case for investigation (in this case, that was May 23, 2016), and the date the investigation concludes is the date the IG "formally designates a case as closed in its case management system." In this case, that was the date it sent its notice to the subject: April 25, 2018. The Board made a *prima facie* finding of probable cause at its July 2018 meeting, and the subject and the subject's attorneys met with the Board at its October 2018 meeting, after which the Board sustained its probable cause finding. It is currently discussing settlement terms with the subject, and the proposed settlement agreement is on today's agenda.

In the seventh IG matter, Case No. 18023.IG (corresponds to IG Case #17-0148, as reported in the IG's latest Quarterly Report), the IG presented its completed investigative report and corroborating evidence on June 20, 2018. The case involves a now-former employee who, the IG concluded (and identified as a former Water Management employee), violated the Ordinance by accepting gifts to a 2016 Cubs' post-season game from a business over which he had official authority, in excess of the Ordinance's \$50 per source/per year limit, failed to report the gift on his annual Statement of Financial Interests, and provided advice or assistance on matters concerning City business that were not wholly unrelated to his City job. The Board made a *prima facie* probable cause finding at its July 2018 meeting. The subject and the subject's attorney will meet with the Board at its December 2018 meeting, the delay being due to the Board's grant of time for the subject to find suitable representation.

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.

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 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 IG or, if he or she fails to do so within two (2) weeks, the Board must make that report.

Since the time this provision (§2-156-070(b)) became effective on July 1, 2013, the Board has advised three (3) aldermen, two (2) aldermanic staffers, one (1) mid-level City employee in an operating department, one (1) department head and one (1) former department head that their past conduct violated the Ordinance. In three (3) of these cases, one (1) 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 aldermen and aldermanic staff self-reported to the former LIG, and the former department head self-reported to the IG. Since the time that all matters involving the former LIG were consolidated with the IG, the IG has informed us that it has no record that the LIG ever commenced an investigation in the matter involving the alderman, and that the matter involving the aldermanic staff was closed, apparently without further investigation by the LIG.

In one case, the Board received a completed investigative report from the IG on May 26, 2017, with a petition for a probable cause finding. The case was based on the Board's earlier conclusion that the subject appeared to have committed a past violation of the Ordinance that was not minor, and then advised the subject of the self-reporting-to-the-IG provisions in the Ordinance. After the IG investigated and confirmed the Board's earlier conclusion, the matter was settled for a \$1,500 fine. The agreement is posted on our website.

In the three (3) cases in which the Board determined that minor violations had occurred, the Board sent confidential letters of admonition, as required by Ordinance.

There is no legal requirement imposed on the IG to report back to the Board on any actions it takes on matters or persons referred to it by the Board, unless the IG completes an investigation and submits a petition for a finding of probable cause to the Board based on that investigation. This is unlike the arrangement in New York City between its Conflicts of Interests Board and Department of Investigation.

P. Lobbyists-Regulation and Enforcement

There are currently 822 lobbyists registered with the Board. This is an all-time record. We have collected \$466,750 in fees for 2018 (which is 56% of our 2018 operating budget).

Third quarter activity reports were due October 22 (the statutory deadline, October 20, fell on a Saturday, thus, per Board Rule, the deadline was extended to the end of the next business day). As of today, all but six (6) have filed. On November 14, 2018, staff informed these six (6) lobbyists that there is probable cause to believe they were in violation, via certified and first class mail, as required by Ordinance. If they do not file by November 26, 2018, they will be determined to have violated the Ordinance and subjected to fines of \$1,000 per day, and their names and violations made public.

Q. Freedom of Information Act

Since the last regularly scheduled Board meeting, the office has received two (2) new requests under the Freedom of Information Act.

The first was for an alderman's Statements of Financial Interests filed in years 2003-2012.

We sent the requestor redacted copies for 2010-11 and advised that we have no such records prior to 2010 [note: all aldermanic Statements of Financial Interests were filed with the City Clerk in years 2012 and prior; the Clerk was required by Ordinance to send us copies, but, pursuant to our document retention schedule, we had destroyed all such forms in years prior to 2010].

The second was for an unknown number of lobbyist records and we sent the requestor such records for 2010, and sent the requestor a link to those records on our website filed after 2010.

IV. NEW BUSINESS

Consideration by the Board of the 2019 Schedule of Board Meetings.

The Board deferred consideration of this matter.

At 12:18 p.m., the Board VOTED 4-0 (Nancy C. Andrade and Dr. Daisy S. Lezama, 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, 4., 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.

The guests were excused.

At 1:22 p.m., the Board VOTED 4-0 (Nancy C. Andrade and Dr. Daisy S. Lezama, absent) to reconvene into open session, and the guests were invited to return.

MATTER CONSIDERED BY THE BOARD IN EXECUTIVE SESSION

V. APPROVAL OF THE EXECUTIVE SESSION MINUTES

The Board confirmed its discussion in executive session, VOTING 4-0 (Nancy C. Andrade and Dr. Daisy S. Lezama, absent) in open session, to approve the executive session minutes, of the October 19, 2018 meeting and also VOTED 4-0 (Nancy C. Andrade and Dr. Daisy S. Lezama, absent) to request that staff review the Board's executive session minutes in full and to report its findings to the Board with respect to continued confidentiality of those minutes.

VI. CASEWORK

A. Consideration of Meeting between the Board and the Respondent Pursuant to §2-156-385(3) of the Governmental Ethics Ordinance – Proposed Settlement Agreement

1. Case No. 18018.IG, Financial Interest in City Business

Staff advised the Board that a draft settlement agreement was forwarded to Respondent's counsel to review.

B. Board Consideration after Issuing Probable Cause Finding to the Respondent Pursuant to §2-156-385(4) of the Governmental Ethics Ordinance – Proposed Settlement Agreement

2. Case No. 18012.IG, Post-Employment

The Board VOTED 4-0 (Nancy C. Andrade and Dr. Daisy S. Lezama, absent) that there was probable cause that the Respondent engaged in lobbying in violation of the Ordinance on three (3) occasions. The Board recommended appropriate settlement terms and fines, and directed staff to draft a settlement agreement for Respondent's counsel to review.

C. Advisory Opinion

3. Case No. 18035.A, City-owned Property; Prohibited Political Activity, Use of Social Media

Staff said that, at the agency's budget hearing on October 30, we fielded several questions addressing what can be posted on social media pages. These included:

- When can Chicago Police personnel post political content on social media sites, and describe themselves factually as Chicago Police personnel, or even display a CPD badge or reasonable facsimile thereof on their social media pages?
- Can aldermen with two (2) Facebook pages (one for Ward events, like job fairs, links to City departments, Ward newsletters, featuring the City seal; another for a-election campaigns that do not display the City seal but use the title "alderman") post on both pages a notice that a local business is hosting a free shredding event, or must this be confined to his "City page?"
- On which kind of social media pages may an alderman post announcements and photos of herself appearing as alderman at various public events, and photos of her appearing with other politicians, or official reactions as alderman to the Van Dyke verdict, or her Ward newsletter? Can she block/defriend followers who have posted profanity on the page and/or called her racist names?
- If a constituent walks into their campaign office, which occupies a different space from their Ward office [as the Board have always recommended, say, in another

suite in the same building, or down the street], and asks a question about City service [*e.g.*, “how do I get a tree planted? have my sidewalk repaired?”] can the alderman answer this question in the political office, or must they tell the person “walk with me to my official City office and we’ll handle it there?” or at least not answer the question in the political office?

At and after the Budget Hearing, the Executive Director stated that the Board would issue a formal advisory opinion answering these questions.

He explained to the Board that staff would have a draft advisory opinion for its consideration at the December meeting, and is conducting comprehensive research into how other cities’ ethics commissions, as well as the U.S. House and Senate Ethics Committees, have handled and advised on these kinds of questions.

He also explained that these questions were prompted by a Memorandum dated May 31, 2018, from the Inspector General to the Chair of the City Council’s Rules and Ethics Committee, which was then sent to all aldermen, specifically citing advice given formally and informally in the past by the Board, but that, despite these numerous references to Board staff and members, staff was never provided a courtesy copy of this Memo and found out about it only because several alderman asked the Executive Director questions raised by it 35 minutes prior to the budget hearing. Staff was able to obtain a copy of the Memo from several aldermen, about 20 minutes before the budget hearing.

D. Board Consideration to Make Finding of Probable Cause

4. Case No. 18036.C, City-owned Property; Prohibited Political Activity

In this case, the Executive Director reported that, on November 6, 2018, he received an email attaching two photographs showing an automobile with a graphic attached to its left side. The graphic is an electioneering communication supporting the candidacy of a person running for alderman, and has on it the City seal, in slightly faded resolution, along with message “[Candidate Name For XXst Ward Alderman ... Vote [NameXXWard.com.]” City records in the Board’s possession confirm that the candidate is employed by the City.

On these facts, which need no investigation, the Board VOTED 4-0 (Nancy Andrade and Dr. Daisy S. Lezama, absent) to find there is probable cause to believe this candidate violated the Ordinance, and directed staff to inform the candidate of his right to a hearing before the Board to attempt to rebut the finding.

The Board also VOTED 4-0 (Nancy C. Andrade and Dr. Daisy S. Lezama, absent) to follow staff’s recommendation and issue an advisory opinion making clear that use of the City seal by any political candidate for election purposes constitutes a violation of the Governmental Ethics Ordinance, until and unless the City Council amends the City seal provision and/or the proper City authorities grant licenses to political candidates to use the City seal for election or political purposes. Staff said the opinion would be ready for the Chair’s signature in several days and made immediately available to the public.

At 1:31 p.m., the Board voted 4-0 (Nancy C. Andrade and Dr. Daisy S. Lezama, absent) to adjourn the meeting.

VII. OTHER BUSINESS

None

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