

BOARD OF ETHICS
OPEN SESSION MINUTES
January 21, 2015 - 3:10 p.m.
740 North Sedgwick, Suite 500

BOARD MEMBERS PRESENT

Stephen W. Beard, Chair
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
Pully Casillas, Staff Assistant

BOARD MEMBERS ABSENT

Dr. Daisy S. Lezama
Hon. Julia M. Nowicki

I. APPROVAL OF MINUTES

The Board VOTED 4-0 (Dr. Daisy S. Lezama and Hon. Julia M. Nowicki, absent) to approve the Open Session Minutes of the December 15, 2014 meeting.

II. CHAIR'S REPORT

None

III. EXECUTIVE DIRECTOR'S REPORT

A. Education-Classes

Staff continues to work with the Department of Innovation & Technology to replace the system for scheduling people for 4-year classes. In the meantime, 12 attended classes December 18 and January 13, and 18 are scheduled for January 29.

On January 30, staff will meet with a delegation of visiting officials from Kazakhstan, at the request of the Mayor's Office.

We are in the process of scheduling an ethics training seminar for the Inspector General's Office.

B. On-line Training

The 2014-2015 lobbyist program will be posted tomorrow. We are in the process of finalizing the all-new 2015 all-employee training.

Currently, there remain 2 employees who have not completed the 2014 mandatory program. On January 7, staff notified 161 employees and 2 aldermen that they had failed to complete the training before the end of 2014, and that they could present written evidence as to why they did not, or in fact did. Violations (without fines) have been assessed as to 49 of them. 108 presented satisfactory evidence as to why they were late, or had actually completed the program prior to the deadline (though we were not notified, as they did it via DVD). The period in which fines of between \$200 and \$750/day accrue began on January 16, and all were notified of that. The names of violators will be made public by posting on our website for 30 days.

C. Document Destruction

Pursuant to the authority granted to the Board by the State Archivist (in the Secretary of State's Office) and the Local Public Records Commission, the Board disposed of the following documents in December 2014: 2006 FOIA requests and response, 2006 Statements of Financial interests, and 2006 lobbyist filings.

D. Lobbyists-Regulation and Enforcement

The deadline for lobbyists to file their 2015 registration was yesterday, January 20, 2015. Currently, 390 lobbyists have registered for 2015 and filed activity reports, and the agency has collected at least \$168,875 in lobbyists' registration fees (there are paper forms and checks that are being processed as I report this, so these figures are constantly increasing). Staff is diligently working to process these registrations so that information can be posted on the internet. As required by Ordinance, staff will notify all lobbyists who failed to re-register or file termination notices of their failures and the penalties by January 26, 2015.

E. Candidates' Statements of Financial Interests

All candidates for elected City office are required by the Ordinance to file Statements of Financial Interests with our office within 5 days of qualifying as a candidate. All forms received from candidates were posted on our website, and collected under a new section of the website for easy access. On December 11, staff sent 147 letters via US mail to candidates who had filed ballot access petitions with the Chicago Board of Election Commissioners, but who had not yet filed with our office.

F. Meeting with the Illinois Campaign for Political Reform (ILCPR) and Better Government Association (BGA)

At the invitation of the ILCPR (sent January 13), the Executive Director and the Chair and/or the Deputy and Legal Counsel will meet on January 22 with 4 representatives from the ILCPR and 2 from the BGA at the ILCPR's offices. The ILCPR is also meeting separately with the Inspector General and Legislative Inspector General. The topic for discussion is the adjudicative process, including settlements and what information is made public and when.

NOTE: Board member Frances Grossman stated for the record that she is also a member of the Board of Directors of the Better Government Association. The Chair acknowledged this.

G. Advisory Opinions

Since the December 2014 meeting, the agency issued 238 confidential advisory opinions (in addition to those formal opinions issued or approved by the Board).

- The leading categories in this period (in descending order) were gifts, campaign financing, lobbying, political activity, statements of financial interests, and post-employment.

Further analysis shows that:

- 44% of these were from City employees in administrative or management positions, 20% from non-administrative or managerial employees, 10% from lobbyists, 7% from City vendors or other businesses, 6% from department heads, 6% from City elected officials (or their personal aides calling on their behalf), 5% from candidates, and remainder from City appointed officials, members of the public, the media, and non-City government agencies.
- 51% came via email; 45 % via telephone; the remainder via walkins.
- Employees or officials from every City department (including the City Council) are represented, with the most numerous ones, in descending order, coming from employees or official in: City Council, Office of the Mayor, Police, Finance, Public Health, Law, and Public Library.

Staff continues to work with the Department of Innovation & Technology on a "beta" version of 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.

H. Freedom of Information Act

Since the last regularly scheduled Board meeting, the office has received 3 new requests under the Freedom of Information Act. One was for a statement of financial interests for an alderman; 1 was for complaints against an alderman; 1 was for 1 lobbyist's records. For the first this agency responded it had no responsive records; for the second the request was denied as the records were exempt from the Act and confidential; and for the last, 62 pages from 18 records were turned over to the requestor.

IV. OLD BUSINESS

None

V. NEW BUSINESS

None

The Board VOTED 4-0 (Dr. Daisy S. Lezama and Hon. Julia M. Nowicki, absent) to adjourn into Executive Session at 3:14 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.

In addition, The Board voted to adjourn into Executive Session under 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 4:21 p.m., the Board VOTED 4-0 (Dr. Daisy S. Lezama and Hon. Julia M. Nowicki, absent) to reconvene into open session.

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

I. APPROVAL OF EXECUTIVE SESSION MINUTES

The Board confirmed it had approved the Executive Session minutes of the December 15, 2014 meeting by a VOTED of 4-0 (Dr. Daisy S. Lezama and Hon. Julia M. Nowicki, absent) in executive session.

II. CASES

A. Query and Consult Summary

1. Case No. 141285.Q, Lobbying

Staff reported that it had advised a requestor that neither the Ordinance, nor Board Rules, nor Board case law have provided a requirement for a record retention period for lobbyists to retain their own records. However, as suggested guidance only, staff advised the requestor that it consider advising his clients to retain such records for four years from their creation. The advice was based upon the provisions in the ordinances of the City's two inspectors general, which provide for a four year limit to their investigations. Staff cautioned the requestor, however, that it is impossible to predict whether a record older than four years might be relevant.

B. Dismissed and Referred Complaint Report

2. Case No. 141283.C, No Jurisdiction

Staff reported that the office received a flyer in an envelope, sent anonymously, which appeared to allege that there had been a misuse of City resources because the flyer was sent through the City's computer system. There was no other information provided. After reviewing the flyer, the Executive Director elected to treat this letter as a complaint and referred the matter to the Inspector General pursuant to §2-156-380(a) of the Ordinance, for action as it deems appropriate.

3. Case No. 15004.C, No Jurisdiction

Staff reported that the office received a letter from an anonymous complainant alleging that two City employees had a conflict of interest when they allowed a private entity to host a webinar because one of the City employees once worked for the entity. There was no other information provided. After reviewing the letter, the Executive Director elected to treat it as a complaint and referred the matter to the Inspector General pursuant to §2-156-380(a) of the Ordinance, for action as it deems appropriate.

4. Case No. 15005.C, No Jurisdiction

Staff reported that the office received a football spreadsheet from an anonymous complainant. The spreadsheet was contained in an envelope from a particular City Department. There was no other information provided. After reviewing the enclosure, the Executive Director elected to treat it as a complaint and referred the matter to the Inspector General pursuant to §2-156-380(a) of the Ordinance, for action as it deems appropriate.

5. Case No. 15006.C, No Jurisdiction

Staff reported that the office received a letter via email from two private citizens objecting to a City Department's management of a Request for Proposals. After reviewing the letter, the Executive Director elected to treat it as a complaint and referred the matter to the Inspector General pursuant to §2-156-380(a) of the Ordinance, for action as it deems appropriate. In addition, staff reported emailing the complainants, advising them that we have no jurisdiction to investigate and have referred the matter to the Inspector General's Office.

C. Mandatory 2014 Online Employees and Officials Training

6. 2014 Online Training for City Employees and Officials

The Executive Director reported statistics regarding compliance with the 2014 On-Line Ethics Training.

D. Office of the Inspector General-Deliberation for Finding of Probable Cause

7. Case No. 141284.IG, Post-Employment

Staff reported that the office received a Summary Report of Investigation and its accompanying investigative file from the Inspector General's Office ("IG") with its petition requesting that the Board issue a finding that there was probable cause that a former City employee violated the Ethics Ordinance's post-employment provision §2-156-10(b). After reviewing the request, the Executive Director assigned the matter to a staff attorney for a case review pursuant to Ordinance §2-156-385 and Board Rule 4-1(A). Pursuant to those rules, the staff case reviewer prepared a report with recommendations for the Board's consideration. The Board VOTED 3-0 with 1 abstention (Dr. Daisy S. Lezama and Hon. Julia M. Nowicki, absent) and found probable cause.

III. OTHER BUSINESS

E. Other Matters

1. Case No. 12031.OLIG [2012OLIG0009]

The Board and staff discussed requests by the attorney for the subject alderman in this case and the response by the Legislative Inspector General (LIG) that: (i) the Board issue a subpoena to the LIG for any transcripts or recordings of interviews made in this matter in preparation for the meeting with the Board at which the subject may present materials contesting the Board's finding of probable cause; and (ii) that the Board not hold this meeting and grant a continuance for this meeting after April 1.

As recommended by the staff, the Board directed staff to inform the attorney that it would not grant a subpoena for this material, as the alderman already has all the materials presented to the Board in making its finding (which is what the law and Board's Rules require). The Board also directed staff to inform the attorney that it will not grant the request, and will hold the meeting past its March 2015 meeting.

2. Case No. 15007.CF, Campaign Financing

The staff and Board members briefly discussed a matter involving a political contribution in excess of \$1,500 made by a registered lobbyist to a political committee of an elected official. The apparent excess contribution was disclosed in the lobbyist's recently filed quarterly activity report for the last quarter of 2014. The staff will make a fuller presentation of the issues presented to the Board at the February meeting.

3. Case No. 141280.A, Campaign Financing

The Board and staff discussed the negative reaction to the Board's advisory opinion in this case expressed in an article on the opinion that appeared on an internet publication.

At 4:25 p.m., the Board VOTED 4-0 (Dr. Daisy S. Lezama and Hon. Julia M. Nowicki, absent) to adjourn the meeting.