

Philadelphia Board of Ethics
Meeting Minutes
April 15, 2015 - 1:00 p.m.
One Parkway Building
1515 Arch Street, 18th Floor

Board Present

Michael H. Reed, Esq., Chair
Judge Phyllis Beck (Ret.), Vice-Chair
Sanjuanita González, Esq.
Brian McCormick, Esq.
JoAnne A. Epps, Esq. (**via telephone**)

Staff Present

J. Shane Creamer, Jr., Esq.
Nedda Massar, Esq.
Maya Nayak, Esq.
Michael Cooke, Esq.
Jordan Segall, Esq.
Ayodeji Perrin, Esq.
Bryan McHale
Tina Simone
Hortencia Vasquez

Chair Reed recognized the presence of a quorum and called the meeting to order at 1:00 p.m.

I. Approval of Minutes

By a 4-0 vote, the Board approved the minutes for the public meeting held on March 18, 2015, as modified.

Board Member Sanjuanita González arrived at 1:03 pm.

II. Executive Director's Report

A. Settlement Agreement

Mr. Creamer reported that on April 7, 2015, the Board approved a settlement agreement with the Williams for Mayor Campaign relating to the campaign's handling of excess pre-candidacy contributions, acceptance of excess contributions, and material misstatements and omissions made in campaign finance reports filed with the Board. The total amount of money involved in the agreement was \$98,177, which included (a) \$62,927 excluded as excess pre-candidacy contributions, (b) \$8,000 as penalties, (c) \$17,250 in disgorgement of excess contributions to the City, and (d) \$10,000 to cover accounting costs incurred by the Board. The agreement also required the Campaign to file amended 2014 cycle 6 and 7 campaign finance reports.

Mr. Creamer stated that the Williams Campaign has moved the \$62,927 to a separate account and, on Friday April 10, 2015, paid the penalties and disgorgement. The Campaign has told Board enforcement staff that they are working on the amended 2014 reports and expect to have them done soon.

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B. Preparations for May 1, 2015 Financial Disclosure Filing

Mr. Creamer noted that as many as five of the Board's ten staff members are now involved on any given day in the annual financial disclosure process, which requires certain City officials and employees and the members of City boards and commissions to file financial disclosure statements. The filing deadline for all forms is May 1st. In order to promote compliance with the filing requirements, Board staff makes every effort to reach as many of the filers as possible with email reminders in which they describe the various forms and the online electronic filing system.

Board staff again worked closely with the Department of Records this year to update the data in the online system, and Board staff are currently working with the City's Departmental Human Resource Managers to add new employees, remove duplicate accounts, and accurately set filing requirements in the system.

This year Board staff have again been fortunate to receive help from the Office of Human Resources, which issued email filing reminders to more than 6,000 current City employees. Board staff will issue email reminders to hundreds of members of City boards and commissions and will mail letters to hundreds of City employees who left City government during the past year, but still have to file a financial disclosure statement one last time. The reminders typically result in a constant stream of phone calls to the Board with two consistent themes: callers want to know why they have to file and how to use the online filing system.

In Board staff's reminders and phone contacts with filers, Mr. Creamer said they would explain that an in-person Financial Disclosure Filer Support Center will be available to provide technical assistance for individuals who need help in filing the Financial Disclosures reports. Computers are available at the filing center which filers may use to submit their reports. The filing center, which is supported by the Records Department, will be located in the Marriott Residence Inn, at the corner of Market and Juniper Streets, from **8:30 AM until 5:00 PM** weekdays from **Monday, April 20th through Friday, May 1st**.

Mr. Creamer stated that the Financial Disclosure process is a joint effort of the Records and Human Resources Departments and the Board.

C. FY16 Budget Update

Mr. Creamer noted that last month he described the Board's proposed operating budget for FY16, as received from the Administration, which totals \$1,034,511. This amount includes \$924,511 for salaries, \$96,000 for purchase of services, and \$14,000 for supplies and equipment. He also noted that the Board needs additional funding for salaries in the amount of \$40,000 in order to fill all 12 of the Board's budgeted staff positions. Therefore, Board staff requested this additional amount in the budget documents that were submitted to the Finance Department.

Mr. Creamer stated that Board staff worked in the past weeks with Chair Reed to prepare and submit the Board's FY16 Budget Testimony. Mr. Creamer provided a copy of the budget testimony to Board members. In the testimony the Board described its accomplishments during the past year and emphasized the extent of its training programs, especially its Campaign

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Finance training in advance of the 2015 elections. The testimony also highlighted the increasing demand for advice concerning the Public Integrity Laws and the Board's willingness to provide that advice in both formal and informal ways.

In the testimony the Board also stressed the need for additional funds to reach its full complement of staff so that Board staff can support the Board's many programs and responsibilities, including its expanding education and advisory roles. Board staff believes that the inability to fill vacant positions will have a direct impact on the delivery of core Board functions.

Mr. Creamer noted that the Board's testimony again acknowledged the crucial role played by the Dechert firm in providing *pro bono* representation of the Board in major litigation. In the testimony it was noted that the Board's budget would very likely be inadequate to pay for outside legal representation should these generous volunteer legal services not be available in future litigation.

As with other agencies with relatively small budgets, the Board has not been scheduled to present its testimony in a separate budget hearing. Mr. Creamer said that Board staff will continue to monitor the process and to press the Board's request for additional funds.

D. Update On Executive Order 7-14, Concerning the Office of the Inspector General

Mr. Creamer noted that at the March Board meeting the Board authorized Chair Reed to send a letter to the Mayor outlining the Board's concerns with Executive Order 7-14, which expanded the authority of the City of Philadelphia Office of the Inspector General. Mr. Creamer stated that Chair Reed sent a letter to the Mayor regarding Executive Order 7-14 on March 23, 2015.

On Friday April 10, 2015, Mayor Nutter telephoned Chair Reed and said that he would convene a meeting among representatives of the Administration, including the OIG, and representatives of the Board to discuss the Board's concerns with Executive Order 7-14. Mr. Creamer said that the Board is currently waiting for that meeting to be scheduled.

III. General Counsel's Report

Informal Guidance

Ms. Nayak reviewed the chart summarizing informal guidance provided from March 7, 2015 to April 3, 2015. She noted an uptick in advice pertaining to financial disclosure in advance of the May 1st filing deadline and discussed a number of guidance requests on that general topic.

Ms. Nayak also stated that two advisory opinions were in process pertaining to conflicts of interest and post-employment, but they were not yet finalized.

SUMMARY OF INFORMAL GUIDANCE PROVIDED, MARCH 7, 2015 – APRIL 3, 2015
(continued next page)

General topic	monthly total # (ytd total)	phone	email	phone & email	in-person	Subtopics
Campaign Finance	44 (185)	28	9	5	2	Reporting requirements and deadlines; candidate committee reporting in non-election years; contribution limits; date of acceptance of contributions; returning contributions; excess pre-candidacy contributions; incidental expenditures related to internet activity by non-candidates; filing by text file; registration requirements; and registration process and SmartClient software.
Financial Disclosure	32 (37)	32	--	--	--	Accessing filed forms; filing requirement for Land Bank Board of Directors; and responding to departmental HR managers' questions, including questions about who should file which form and FDS system upgrades.
Political Activity	14 (49)	8	5	1	--	Restrictions on appointed officials and employees, including City Council employees; campaign sending communications to City email addresses; political contributions by City employees; and restrictions on being in any manner concerned in political fundraising, being a member of a political party committee, participating in political activity organized or paid for by a political party, and using City resources for political activity.

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SUMMARY OF INFORMAL GUIDANCE PROVIDED, MARCH 7, 2015 – APRIL 3, 2015

General topic	monthly total # (ytd total)	phone	email	phone & email	in-person	Subtopics
Lobbying	14 (81)	14	--	--	--	Definition of lobbying; registration thresholds; terminating lobbying registration; and registration process and payments.
Conflicts	5 (14)	2	2	1	--	City hiring decision affecting a friend; disclosure and disqualification process; City official with private business interest; and City employee receiving compensation from City for non-work related services.
Post-Employment	2 (10)	1	--	1	--	
Gifts	2 (12)	2	--	--	--	Event tickets; and gift from restricted source.
Other	16 (35)	15	--	1	--	Non-competitively bid contract reform law; ethics training requirements; Board's enforcement role; and no Board jurisdiction.

This chart summarizes the informal guidance provided by a number of Board Staff members during the specified time period. The figures provided reflect the approximate number of inquiries that Board Staff has responded to and do not indicate the amount of time spent per topic or inquiry.

IV. Board Meeting Dates for May and June 2015

Ms. Massar requested that the Board approve a change to its May meeting date from May 20, 2015 to May 13, 2015, and that the Board meeting now scheduled for June 24, 2015 be changed to June 10, 2015. These changes were requested to accommodate a conflict in Board members’

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schedules and to keep the Board meetings on four week intervals. Ms. Massar said that, if approved, the Board meeting changes would be advertised and posted on the Board's website.

By a 5-0 vote, the Board approved the changes to its May and June 2015 meeting dates from May 20, 2015 to May 13, 2015 and from June 24, 2015 to June 10, 2015, as requested.

IV. Proposed Campaign Finance Legislation

Mr. Cooke presented a draft of proposed campaign finance legislation to the Board. The proposed legislation would amend the City's Campaign Finance Law to provide for enhanced campaign finance disclosure.

Mr. Cooke reviewed the proposed amendment at length and answered several questions from Board members. The Board then voted 5-0 to authorize Chair Reed to send a letter to the Mayor and the City Council President asking that the proposed amendment to the City's Campaign Finance Law be introduced and adopted into law.

VI. New Business

There was no new business presented at the meeting.

VII. Questions/Comments

Adam Bonin expressed two concerns regarding the proposed campaign finance legislation. He expressed a concern about preemption by Commonwealth law based upon the City adding reporting requirements. He also expressed notice concerns for persons that need to file campaign finance reports with the City but only because of limited expenditures to influence the outcome of a City election. Chair Reed thanked Mr. Bonin for his comments.

Chair Reed announced that the Board conducted executive session meetings regarding confidential enforcement matters by email between March 23 and March 24, 2015 and between April 3 and April 7, 2015.

Chair Reed also announced that after the public session, the Board would meet in executive session to address confidential enforcement matters and to discuss a personnel matter.

The public session of the Board meeting was adjourned at approximately 2:00 p.m.