

Philadelphia Board of Ethics
Meeting Minutes
December 16, 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.

Staff Present

J. Shane Creamer, Jr., Esq.
Nedda Massar, Esq.
Maya Nayak, Esq.
Michael Cooke, Esq.
Diana Lin, Esq.
Jordan Segall, Esq.
Thomas Klemm, 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 November 18, 2015, as presented.

II. Executive Director's Report

A. Reappointment of Chair Michael H. Reed, Esq. to the Board

Mr. Creamer reported that on December 10, 2015, City Council unanimously confirmed the reappointment of Chair Michael H. Reed to a second term on the Board of Ethics for a term ending on November 16, 2020. Board staff especially appreciates Chair Reed's dedication to the work of the Board and his constant support of Board staff.

Mr. Creamer said that Board staff looks forward to Chair Reed's continued leadership and to working together toward ethical City government. Chair Reed said the feelings were mutual.

B. Ethics Training

Mr. Creamer said that Board staff has already begun to plan for ethics training for new members of City Council and their staffs and for the many new employees who will be part of the Kenney Administration. Board staff therefore expects to have an especially heavy ethics training schedule from January through April 2015 for all of these new City employees.

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Board staff also anticipates that there will be many new appointments to City boards and commissions by the new Administration in the coming months and that they will therefore have a full schedule of ethics training sessions for board and commission members.

C. COGEL Conference

Mr. Creamer said that Board staff's experience at the 2015 COGEL Conference in Boston was exceptional. Not only did Board staff receive updates on campaign finance, ethics and lobbying, but there were also many sessions about uses of technology in the Board's type of work.

COGEL members are local, state, national and international government officials who regulate ethics, campaign finance, lobbying, freedom of information and election administration laws. COGEL members also include good government groups, private sector law and lobbying firms and lobbyists and their clients. This unique combination of regulators and the regulated community ensures that conference sessions and discussions are provocative and stimulating.

There were more than 40 conference sessions as well as three plenary sessions. The plenary session on Monday was called "Corruption on Steroids: A Reporter's Behind-the-Scenes View." It was presented by Jeff Gottlieb, a former Los Angeles Times reporter, whose investigation of the city of Bell, California exposed extensive corruption in the small town and resulted in convictions of seven city officials.

Several Board staff members enjoyed the session called "Super PAC Potluck: Coordination, Scam PACs & Super PAC Pop-Ups." Panelists included Trevor Potter, a former Chair of the Federal Election Commission, who is currently General Counsel at the Campaign Legal Center. He is possibly best known for his appearances on *The Colbert Report*, where he explained political action committees and the *Citizens United* case to the public. He was also instrumental in the creation of "Americans for a Better Tomorrow, Tomorrow," Stephen Colbert's Super PAC.

The conference included Breakfast Table Topics on Monday and Tuesday, starting at 7:30 each morning, which are invaluable informal discussions over breakfast about topics as varied as I.R.S. rules for non-profits and tips for writing clear regulations.

Board staff are very pleased that Mr. Cooke again served on the Program Committee, which plans the entire Conference agenda. Mr. Cooke was the coordinator for two sessions: "Campaign Finance Update I," concerning litigation in 2015, and "Preparing the Case I: The Nuts and Bolts of Thorough Investigations." Mr. Cooke also coordinated and was a panelist for the session entitled "Preparing the Case II: The Art of Locking in the Evidence."

Mr. Creamer said that Board staff especially appreciate the role that COGEL played in the creation and development of the Board. Beginning in 2005, the executive directors of two COGEL member agencies, the Los Angeles Ethics Commission and the New York City Conflict of Interest Board, came to Philadelphia to testify at a City Council hearing in support of the legislation that created the Board. Mr. Creamer said the Board's COGEL colleagues continue to

be an invaluable resource for Board staff and Board staff are proud that they are now able to return the favor and help them.

Mr. Creamer noted that Board staff are already looking forward to next year's conference in New Orleans from December 11th through the 14th.

****At this time Board Member Sanjuanita González arrived at the meeting.****

III. 2016 Board Meeting Calendar

Chair Reed explained that the Board is required by the Pennsylvania Sunshine Act to give public notice of its schedule of regular meetings. The Board reviewed a schedule of 2016 meeting dates. Chair Reed said that once the Board approved the 2016 meeting schedule, Board staff would arrange for the list of dates to be published and posted, as required by law.

By a 5-0 vote, the Board approved the following schedule of Board meeting dates for 2016:

January 20, 2016
February 17, 2016
March 16, 2016
April 20, 2016
May 18, 2016
June 15, 2016
July 20, 2016
August 17, 2016
September 21, 2016
October 19, 2016
November 16, 2016
December 21, 2016

IV. General Counsel's Report

A. Informal Guidance

Ms. Nayak reviewed the chart summarizing informal guidance provided from October 10, 2015 through November 6, 2015. Ms. Nayak noted two items of informal guidance. First, she had provided informal guidance based on specific facts provided by two requestors that their particular proposed involvement related to the non-profit Philadelphia 2016 Host Committee would not violate the political activity restrictions. Second, she had provided informal guidance that the City Code gift restriction applies to individuals who have already begun serving as City officers and employees and who are able to take official action on behalf of the City, not to individuals who will begin or are likely to begin City service in the future.

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B. Thomas Klemm

Ms. Nayak welcomed Thomas Klemm who is a new Staff Attorney with the Board. Mr. Klemm has been a member of Board staff for approximately three weeks. Ms. Nayak noted that Mr. Klemm has thrown himself into the work of the Board with enthusiasm and diligence. Ms. Nayak said she was happy to have Mr. Klemm’s help. On behalf of the Board, Chair Reed welcomed Mr. Klemm.

SUMMARY OF INFORMAL GUIDANCE PROVIDED, OCTOBER 10, 2015 – NOVEMBER 6, 2015

General topic	monthly total # (ytd total)	phone	email	phone & email	in-person	Subtopics
Campaign Finance	52 (549)	45	5	2		<ul style="list-style-type: none"> ▪ Campaign finance reporting requirements and deadlines, including who has to file and what kinds of expenditures trigger reporting requirements ▪ Contribution limits ▪ Disclosure of excess contributions and in-kind contributions ▪ Amending campaign finance reports ▪ Post-candidacy contributions
Lobbying	32 (192)	30			2	<ul style="list-style-type: none"> ▪ Registration assistance ▪ Transferring existing registrations and adding affiliated principals ▪ Filing and amending expense reports ▪ Lobbying technical system issues

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**SUMMARY OF INFORMAL GUIDANCE PROVIDED, OCTOBER 10, 2015 – NOVEMBER 6, 2015
(CONTINUED)**

General topic	monthly total # (ytd total)	phone	email	phone & email	in-person	Subtopics
Political Activity	15 (105)	8	3	3	1	<ul style="list-style-type: none"> ▪ Questions related to non-profit Philadelphia 2016 Host Committee ▪ City employees acting as judges of election or as committee people is generally prohibited ▪ Ability of spouse of City employee to host a fundraiser for a candidate in couple's jointly-owned residence ▪ Purchasing tickets for and attending a fundraiser hosted by politicians to benefit a nonprofit ▪ Use of social media sites ▪ Wearing an "I Voted" sticker at work ▪ City employee serving as poll watcher ▪ Solicitation by City elected official for political contributions
Conflicts	6 (48)	1	2	3		<ul style="list-style-type: none"> ▪ Sending a recommendation letter to support a grant to certain individuals ▪ Outside employment ▪ Nepotism ▪ Official action involving discretion versus ministerial action ▪ Acceptance of unpaid position

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**SUMMARY OF INFORMAL GUIDANCE PROVIDED, OCTOBER 10, 2015 – NOVEMBER 6, 2015
(CONTINUED)**

General topic	monthly total # (ytd total)	phone	email	phone & email	in-person	Subtopics
Gifts	5 (29)	4		1		<ul style="list-style-type: none"> ▪ Donation of event space to City office for public event ▪ Complimentary airfare for City employee to attend a trip ▪ Free tickets to attend events, including a fundraiser and an event to benefit a nonprofit ▪ Political committee paying City employee's personal expense
Post-Employment	3 (37)		3			<ul style="list-style-type: none"> ▪ Conflict of interest with respect to prospective employers outside the City ▪ Accepting an unpaid position following City employment
Other	7 (69)	4	2	1		<ul style="list-style-type: none"> ▪ City agency publication ▪ Board policy of not giving advice to requestors regarding third-party behavior ▪ State election code and State financial disclosure requirements ▪ Non-competitively bid contracting law

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.

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V. New Business

There was no new business presented at the meeting.

VI. Questions/Comments

Adam Bonin said that according to his reading of the Philadelphia Code on December 15, 2015 the Finance Director was required to calculate the City's campaign contribution limits for the next four years. He asked if the Finance Director had made the adjustment and if the Board knew the amounts of the new contribution limits.

Ms. Nayak responded that she did not believe that the Finance Director had done so yet. She said that once the Finance Director provides the new calculation, Board staff will publicize the new limits and will also let Mr. Bonin know. Mr. Creamer added that the Department of Finance is aware that it must make the adjustment and is working on the calculation.

Chair Reed announced that after the public meeting, the Board would meet pursuant to Sections 708 and 716 of the Pennsylvania Sunshine Act to receive legal advice and to address confidential enforcement matters.

The public session of the Board meeting was adjourned at approximately 1:15 p.m.