

Philadelphia Board of Ethics
Meeting Minutes
July 20, 2016 - 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 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
Eileen Donnelly
Hortencia Vasquez

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

I. Minutes

By a 3-0 vote, the Board approved the minutes of the public meeting held on June 15, 2016, as presented. Board member González abstained from voting on the minutes because she had not attended the June 15, 2016 public meeting.

Board member McCormick arrived at the Board meeting at 1:05 pm

II. Executive Director's Report

A. Board News

As a first order of business, Mr. Creamer congratulated Board member, JoAnne Epps, on her very recent appointment to the position of Temple University Provost. Dean Epps has spent more than 30 years at Temple's Beasley School of Law where she has been Dean for the last eight years. In her new role as Provost, her responsibilities reach far beyond the Law School. She will serve as Temple's Senior Vice President and Chief Academic Officer, and will oversee academics in Temple's 17 schools and colleges, as well as in its many administrative offices.

In addition to her service to the City of Philadelphia as a member of the Board of Ethics, Dean Epps is the court-appointed monitor in the settlement of *Bailey v. City of Philadelphia*, a lawsuit challenging the city's stop and frisk activity, and also serves as Chair of the Police Community Oversight Board.

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Mr. Creamer noted that one of the recent articles about Dean Epps and her new role at Temple stated that her original career goal was to become a legal secretary and to model her career after the character Della Street on *Perry Mason*. Mr. Creamer said that Board staff are very glad that Dean Epps followed a different career path and congratulated her on her new role at Temple.

Mr. Creamer said Board staff were also proud to announce that Chair Michael Reed was elected to the Board of Trustees of Temple University on Tuesday, July 12, 2016. Chair Reed received his bachelor's degree in political science from Temple University and serves as general counsel of the Temple University Alumni Association.

On behalf of Board staff, Mr. Creamer congratulated both Board members.

B. Staff Activity

On July 14 and 15, 2016, the Law Department conducted its annual two-day Continuing Legal Education program for City attorneys. Mr. Creamer and Mr. Cooke were the first speakers as part of the Ethics Plenary Course on July 14th.

The topic of the presentation was the political activity restrictions of Section 10-107 in the City's Home Rule Charter. Mr. Creamer and Mr. Cooke provided an explanation of the role of the Board of Ethics as well as an overview of the political history of the decades leading up to the adoption of the 1952 Charter. In addition, Mr. Creamer and Mr. Cooke described the substance of the political activity rules that apply to City officers and employees and gave specific examples of what officers and employees can and can't do. Mr. Creamer and Mr. Cooke concluded the presentation by discussing the application of the restrictions to the upcoming Democratic Convention.

C. Budget Update

Mr. Creamer said that the City's FY17 operating budget was approved by City Council on June 16th and signed by Mayor Kenney on June 20th. The Board's FY17 appropriation is \$1,071,403, which includes \$961,403 for salaries, \$96,000 for purchase of services, and \$14,000 for supplies and equipment.

III. General Counsel's Report

A. Advisory Opinion

Ms. Nayak announced that Non-public General Counsel Opinion 2015-504 was issued on October 5, 2015. The Opinion addresses the application of the City ethics laws to a City board member who has a private law practice and is an employee of the Philadelphia judicial system. The Opinion advises that City ethics law do not prohibit the City board member from being employed by the Philadelphia judicial system. The Opinion also advises that service on the City board at issue in conjunction with a private law practice that involves the City does not violate City ethics laws. The Opinion notes that someone with significant experience involving the City may represent important interests that are valuable for the City board to have among its

APPROVED BY BOARD OF ETHICS ON 9/21/2016

membership. A redaction of Non-public General Counsel Opinion 2015-504 is available on the Board’s website.

B. Educational Document Regarding Charter Political Activity Restrictions

Ms. Nayak said that General Counsel staff created a one-page document entitled: “Q&A: City Charter Political Activity Restrictions and the 2016 Election Season” to assist General Counsel staff as they field questions about the political activity restrictions. The educational document is available on the Board’s website.

C. Informal Guidance

Ms. Nayak reviewed a chart summarizing informal guidance provided by Board staff from May 7, 2016 through June 3, 2016.

SUMMARY OF INFORMAL GUIDANCE PROVIDED, MAY 7, 2016 – JUNE 3, 2016

General Topic	monthly total (#) (ytd total)	email	phone	phone & email	in-person	Subtopics
Financial Disclosure	59 (1196)	19	39	1		<ul style="list-style-type: none"> ▪ Assisting filers with accessing and utilizing online filing system and technical issues related to filing system ▪ Explaining filing and disclosure requirements and the online filing system ▪ Civic Design Review Committee considered City board for financial disclosure purposes
Campaign Finance	15 (96)	5	9		1	<ul style="list-style-type: none"> ▪ No filing requirement with Board when political committee only makes expenditures to influence a non-City election ▪ Explanation of how to disclose various forms of contributions (including in-kind contributions and pre-candidacy contributions) ▪ Filing issues related to campaign finance reports (including amending reports and filing sworn statement forms) ▪ Filing requirements for various individuals and entities (including incumbent elected officials, political action committees, and ward committees) ▪ Searching campaign finance database

APPROVED BY BOARD OF ETHICS ON 9/21/2016

**SUMMARY OF INFORMAL GUIDANCE PROVIDED, MAY 7, 2016– JUNE 3, 2016
(CONTINUED)**

General Topic	monthly total (#) (ytd total)	email	phone	phone & email	in-person	Subtopics
Lobbying	8 (88)	1	6		1	<ul style="list-style-type: none"> ▪ Assistance with expense reports ▪ Registration inquiries related to topics such as new registration, renewal and reporting thresholds ▪ Reporting issues related to affiliated entities ▪ Whether certain behavior would constitute reportable lobbying
Political Activity	9 (61)	1	7	1		<ul style="list-style-type: none"> ▪ Application of Charter fundraising restriction to elected official ▪ Attendance at candidate political event on City property ▪ Being board member of entity that is not a partisan political group ▪ City employee prohibited from being convention delegate ▪ Participation in voter registration drive not connected with a candidate, political party or partisan political group ▪ Various questions related to Democratic National Convention, including vendor advertising and links from City websites ▪ Volunteering related to the Democratic National Convention and to the Philadelphia 2016 Host Committee

APPROVED BY BOARD OF ETHICS ON 9/21/2016

**SUMMARY OF INFORMAL GUIDANCE PROVIDED, MAY 7, 2016– JUNE 3, 2016
(CONTINUED)**

General Topic	monthly total (#) (ytd total)	email	phone	phone & email	in-person	Subtopics
Conflicts	7 (44)	2	4	1		<ul style="list-style-type: none"> ▪ City employee’s outside employment as independent contractor for firm that is subcontractor of City employee’s department ▪ Disclosure and disqualification process ▪ Restrictions applicable to City official serving on non-profit board and volunteering for non-profit ▪ Restrictions applicable when City employee applies for a new, outside position when prospective employer has a contract with the City ▪ Conflict of interest under State Ethics Act for member of City board who also serves on the board of a non-profit ▪ Whether City employee is able to give free software to City department ▪ Whether requestor is able to work on a project with a private nonprofit organization as part of outside employment
Gifts	2 (36)		2			<ul style="list-style-type: none"> ▪ Procedure for returning prohibited gift/gratuity ▪ Whether City official can accept tickets to event hosted by nonprofit closely affiliated with the City

APPROVED BY BOARD OF ETHICS ON 9/21/2016

**SUMMARY OF INFORMAL GUIDANCE PROVIDED, MAY 7, 2016– JUNE 3, 2016
(CONTINUED)**

Post- Employment	1 (16)		1			<ul style="list-style-type: none"> ▪ Overview of post-employment restrictions
Other	1 (12)		1			<ul style="list-style-type: none"> ▪ 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. Land Bank Public Advisory Opinion Request

Ms. Nayak presented a draft public Board Opinion responding to the Land Bank’s public advisory opinion request regarding the application of the City Ethics Code and the City Lobbying Law to the Land Bank. Ms. Nayak and Board members had previously discussed the substance of the draft public Board Opinion at length at the March 16, 2016 public meeting.

After a lengthy discussion, by a 5-0 vote, Board members approved the draft public Board Opinion to the Land Bank, subject to final proofreading, the incorporation of several edits suggested by Chair Reed and Board member McCormick, and an alternative presentation of the facts Ms. Nayak had suggested.

V. New Business

Ms. Massar suggested that the Board cancel the public Board meeting scheduled for August 17, 2016. The Board typically does not hold an August public meeting because of scheduling issues for Board members. Ms. Massar said that if the Board cancels its August 17, 2016 public meeting Board staff will post the requisite notices for the public. Ms. Massar further noted that under Charter Section 3-806(i), Chair Reed has the authority to call a public Board meeting if necessary.

By a 5-0 vote, Board members voted to cancel the August 17, 2016 public meeting.

APPROVED BY BOARD OF ETHICS ON 9/21/2016

VI. Questions/Comments

City Chief Integrity Officer Ellen Kaplan asked about accessing documents discussed at Board meetings, noting that at times it can be difficult to hear. Ms. Kaplan also spoke about the Kenney Administration's request that the Board consider raising lobbying fees for the FY 2018 fiscal operating budget.

Chair Reed announced that after the public meeting the Board would meet pursuant to Sections 708 and 706 of the Pennsylvania Sunshine Act to address confidential enforcement matters and potential litigation.

The public session of the Board meeting was adjourned at approximately 2:15 p.m.