Philadelphia Board of Ethics
Meeting Minutes
December 18, 2007
Board of Ethics
Packard Building
1441 Sansom Street, 2nd Floor
1:00 pm

Present:

Board
Richard Glazer, Esq., Chair
Phoebe Haddon, Esq.
Rich Negrin, Esq., Vice-Chair

Staff
J. Shane Creamer, Jr., Esq.
Tina Formica
Nedda Massar
Evan Meyer, Esq.

I. Call to Order

Mr. Glazer acknowledged that a quorum was present and called the meeting to order.

II. Approval of Minutes

The Board approved the meeting minutes for the public meeting on November 20, 2007.

III. Executive Director's Report

A. Campaign Finance Compliance Report

1. Nonfilers

i. Local 98 IBEW Committee On Political Education PAC

Mr. Creamer stated that after he discovered that the Local 98 IBEW COPE PAC made a contribution to at least one City candidate in Cycle 7 for 2006 and to 18 candidates throughout 2007, he sent a letter to the PAC's treasurer, John Dougherty, on October 31st. Mr. Creamer's letter explained the electronic filing requirement and that the Local 98 IBEW COPE PAC failed to file electronic campaign finance reports electronically with the Board for Cycle 7 in 2006 and Cycles 1, 2, 3, 4 & 5 in 2007. Mr. Creamer advised him that the PAC would have until November 15th to file the reports electronically.

Mr. Creamer stated that he received a fax from the PAC's attorney requesting an additional 45 days to submit a response to his letter, on November 15th. After providing the attorney a few days to confirm that the PAC would comply, Mr. Creamer set a new deadline of December 7th. All 6 reports were filed electronically by that second deadline. In addition, the PAC filed its Cycle 6 report electronically.

ii. IBEW Committee On Political Education PAC

Mr. Creamer stated that the 2007 Cycle 3 report filed on behalf of the Green for Philadelphia candidate committee disclosed a $10,000 contribution to that candidate political committee on May 11, 2007 by the national IBEW COPE PAC. Although IBEW COPE PAC filed a required Cycle 3 report in 2007, it failed to file the same report with the Ethics Board in an electronic format. Accordingly, Mr. Creamer sent a letter to its treasurer, Jon Waters, on November 21st, advising him that IBEW COPE was in violation of Section 20-1006(1) of the City's campaign finance law for its failure to file its 2007 Cycles 3 report electronically. Mr. Creamer also advised him that the PAC would have until December 7th to file the report electronically, which they did.

iii. Pennsylvanians for Better Leadership PAC

Mr. Creamer stated that after he discovered that the Cycle 2 & 3 campaign reports filed by 8 candidates disclosed contributions from the Pennsylvanians for Better Leadership PAC in March, April and May of 2007 totaling $52,500, he sent a letter on November 16th to its treasurer, Kevin Watson, advising him that his PAC was in violation of Section 20-1006(1) of the City's campaign finance law. Mr. Creamer advised him he had until November 30th to file the reports electronically, which he did.

B. Second Newsletter

Mr. Creamer announced that the Board's second newsletter ("Ethics Rising: The Newsletter of the Philadelphia Board of Ethics"), was published and circulated on December 14th. It is also available on the Board's web site.

Mr. Creamer stated that staff recommends publishing a quarterly newsletter in 2008. This will ensure that we have sufficient content for the newsletters.

C. Contribution Limit Adjustment

At the last Board meeting, Mr. Creamer reported that he sent a letter to the Finance Director on November 15th explaining the requirement of Section 20-1002(8) of the City's campaign finance law, which directs the Finance Director to calculate and certify adjustments to the contribution limits every four years, beginning on January 1, 2008. The contribution limits are adjusted by multiplying the contribution limits by an average consumer price index, rounded to the nearest $100.

Mr. Jannetti responded to Mr. Creamer's letter on November 21st, explaining that the COLA figures that are supposed to be used in the December 15th calculation are not available until the end of January. By copy of the letter, Mr. Jannetti sought advice from the Law Department on how to proceed.

Mr. Creamer stated that Chief Deputy City Solicitor Richie Feder responded to Mr. Jannetti by Memorandum on December 10th. Mr. Feder advised him to use the most current available numbers. Since the BLS publishes CPI numbers for the Philadelphia region in even-numbered months only, Mr. Feder advised him to use the average CPI for the months of February, April, June and August for the

nominator and the average of all six bi-monthly figures for 2005 as the denominator, when calculating the CPI multiplier.

D. Annual Report

Mr. Creamer announced that staff prepared a draft table of contents for the Board's annual report, required by Section 20-606(l)(i) of the Ethics Code. The goal is to have an outline for the report by January 4th; a first draft by the Board's January meeting; and the final draft by the February meeting.

E. Personnel Update

Mr. Creamer stated that job descriptions have been prepared for the Director of Enforcement and the Assistant General Counsel. Ms. Massar is making arrangements to have the positions posted on COGEL's web site. Mr. Creamer said that the positions will also be posted on our website.

Mr. Creamer also stated that a job description has also been prepared for "information specialists," which will be posted in local colleges and universities in January. Information specialists will be able to support various tasks and functions within the organization, including investigations, data review, compliance checks and education and training.

IV. General Counsel's Report

Mr. Meyer reported that he gave informal email advice on the following issues:

a. Advised Budget Office whether it was a legitimate expenditure for Airport to send officials to meet with Congressional delegation. No "political activity" or lobbying issues.
b. Advised DHS whether there is any violation in Social Work Supervisor renting house to niece where niece is providing kinship care for two related children paid for by the Department and seeks DHS emergency grant to help pay for rent. No conflict of interest if the Social Work Supervisor (aunt/landlord) takes no official action regarding kinship care program or emergency grant award.
c. Issued confidential advice to aide to a Councilperson regarding funding of an inaugural event.

d. Provided summary of post-employment principles to Managing Director's Office.
e. Responded to "Ask for Advice" e-mail to citizen who asked how to find a divorce lawyer.
f. Advised Planning Commission on receipt of holiday gifts.
g. Advised Finance on receipt of gift basket.
h. Advised Free Library on ordinance on outside employee (i.e., there is none, specifically. Related bill did not get a hearing. Several ethics provisions address outside employment indirectly.)
i. Advised Mayor's Office that City employee may accept invitation to event related to recent elections—no violation of political activity rules. No problem, assuming the employee pays the admission fee.
j. Advised MBEC staff on gift luncheon (answer: attendance not permissible under executive order)

Mr. Meyer also reported that he worked on the following documents:

a. Issued two advices to OHCD counsel opinion no violation of state or local law, so OHCD may seek exception from HUD to federal conflict of interest rules.
b. Wrote Confidential Advice of Counsel on "recognition event," of which public version is being issued today.
c. Drafted initial draft of Opinions 2007-005 and 2007-006.
d. Updated the chart of ethics legislation for posting on Board's web site.
e. Drafted post-employment notice (based on Opinion 2007-001) for bulkmailer to City employees.

V. Proposed Advisory Opinion 2007-006

Mr. Meyer was asked by Mr. Glazer to give some background information regarding proposed Advisory Opinion 2007-006.

Mr. Meyer said that staff didn't think it made any sense to repeat the information included in Advisory Opinion 2007-004, so they decided to attach it to Advisory Opinion 2007-006.

Mr. Meyer stated that he received a request from L&I on how political restrictions apply to four Boards that are assigned to their department. The Board decided to answer the question on the L&I Boards, but discussed eventually issuing an

opinion to include all Boards and Commissions. Mr. Meyer said he was asked to prepare a draft opinion at the Board meeting in November.

After a lengthy discussion among the Board, a motion was made to approve Advisory Opinion 2007-006. The Opinion was unanimously approved as drafted by the members that were present.

VI. Possible Legislative Recommendations

Ms. Massar stated that the Board asked staff to prepare Legislative Recommendations on three sections of the City Code: Conflict of Interest, Disclosure and Disqualification and Financial Disclosure.

Staff suggested the following legislative recommendations:

- With regard to Sections 20-607 and 20-608, the Board might wish to recommend in its Annual Report that the text of each be reorganized and rewritten to be more "user friendly."

- Section 20-610 presents different issues. It generally establishes the requirement for city officers, employees, and members of boards and commissions to file annual financial disclosure statements. There are two additional financial disclosure requirements, arising under State law and Mayoral Executive Orders 11-84 and 1-90, each of which requires that a form, in addition to the City form, be filed. Based upon the position he or she holds, an individual in City government may be required to file all three disclosure reports, while others may file one or two. The information required to be reported and the reporting thresholds differ from form to form; however some of the differences are minor.

  The Board may find it reasonable to make legislative recommendations in its Annual Report to simplify the three-prong reporting system, to adopt one form for all three reporting obligations, to conform the City's and Mayor's reporting thresholds to those in the State law, and to eliminate the Mayor's form because it frequently parallels the City Form.

- The Board may wish to consider a recommendation that contribution limits apply on a "per election" basis, rather than an annual basis. Such a change would restrict the amount that individuals could amass as a "war chest" in

non-election years, and would assist the candidate who uses maximum funds in a hotly-contested primary election, and then has little left in annual contributions to fund a difficult general election.

- The Board may wish to consider the suggestions presented during the discussion of Advisory Opinion 2007-005 concerning raising and spending funds by a mayor-elect for inaugural events and transition expenses.

VII. 2008 Meeting Schedule

Mr. Creamer recommended having the Board meetings in 2008 on the third Wednesday of the month at 1 pm.

A motion was made to publish the proposed schedule, which was unanimously approved. The 2008 schedule will be published as follows:

January 16, 2008
February 20, 2008
March 19, 2008
April 16, 2008
May 21, 2008
June 18, 2008
July 16, 2008
August 20, 2008
September 17, 2008
October 15, 2008
November 19, 2008
December 17, 2008

VIII. New Business

There was no new business to discuss

IX. Questions/Comments

Chris Brennan from the Daily News asked the following question on behalf of Bob Warner:

> On the L&I Opinion regarding political activity, has there been any enforcement since the Opinion has been issued?

Mr. Creamer stated that the Board doesn't have any information that any of the Board or Commission members are in violation. He also stated that a thorough search has not been performed yet, but if someone is in violation of the Opinion there will be consequences.