

**Philadelphia Board of Ethics**  
**Meeting Minutes**  
June 19, 2007  
Philadelphia Bar Association  
ARAMARK Building, 11th Floor  
1101 Market Street, Philadelphia PA  
11:00 am

**Present:**

Board

Pauline Abernathy  
Richard Glazer, Esq., Chair  
Phoebe Haddon  
Richard Negrin, Esq., Vice Chair  
Stella Tsai, Esq.

Staff

J. Shane Creamer, Jr., Esq.  
Tina Formica  
Timothy Porter

Guests

Evan Meyer, Esq.

After recognizing that a quorum was present, Board Chair Richard Glazer convened the meeting.

**I. Swearing In**

Phoebe Haddon was sworn in by Judge Ida Chen. Ms. Haddon will serve the unexpired three year term of Reverend Alyn Waller. Ms. Haddon stated that she truly looks forward to working with the Board.

## **II. Approval of Minutes**

The Board approved the meeting minutes for the public meetings on the March 18, 2007, April 17, 2007 and May 8, 2007.

## **III. Resolutions of Appreciation**

Mr. Glazer introduced Resolutions of Appreciation for the law firms of Deckert and Cafferty Faucher. Facts developed by review of campaign finance filings, newspaper reports and complaints filed with the Board resulted in investigations of potential violations leading to the need for enforcement actions. These law firms rendered exemplary pro bono legal services in the representation of the Philadelphia Board of Ethics. A motion to adopt the Resolutions was approved by the Board.

## **IV. Regulation No. 2**

Mr. Glazer said that recognizing that 20-606(h) of the Philadelphia code required the board by regulation to provide for adjudication of alleged violations be given opportunity to be heard are published prior to any final decision by the board.

Mr. Glazer stated that a drafting team was assembled in February to assist in developing such a regulation. The drafting team includes Tara Malloy, Larry White, Evan Meyer, Shane Creamer and Richard Glazer.

Over the next few months the committee reviewed various municipal and model codes relating to adjudication and enforcement and developed a regulation which was presented to the Board, debated and unanimously passed at the April 17, 2007 Board meeting.

On April 25, 2007 pursuant to that passage the Board lodged with the department of records the proposed regulation No. 2 to become effective May 25, 2007.

On May 14, 2007 Mr. Glazer received a memo from the city solicitor with various comments to the proposed regulation which resulted in the advertising on May 24, 2007 of public hearing set for today pursuant to 8-407 of the charter. As a result of the law department comments there have

been discussions back and forth between the law department and the drafting team.

Evan Meyer is here today to review the changes from the original posted regulation.

Mr. Meyer reviewed the following changes to Regulation No. 2:

Subpart A. Definitions; Scope. 2.2 Powers of the Board. New addition seeks to delineate Board and General Counsel role (adjudicative) from that of Executive Director and staff/consultants (investigatory/prosecutorial). \*Due Process\*

Subpart B. Investigations. Having made clear the roles of Board, GC and ED and staff/consultants, titles were inserted to reflect responsibilities. Board made new proposal to include calendar/business between ten (10) and days. Paragraph 2.3A was added. \* Due Process, Style and Clarity\*

Subpart C. Administrative Enforcement. New language forbids Ed from *ex parte* communications with the Board and GC as well as an Hearing officer appointed by the Board. \* Due Process\*

Subpart D. Judicial Enforcement. Removal of 2.16 (c) [Board ] Determine that probable cause exists, and direct GC... was removed to ensure proper procedure. \*Due Process\*

Mr. Glazer made the floor available to the public.

Richard Dashefsky proposed the following additions/revisions

2.2 Powers of the Board. Addition proposed was the creation of a statement that this separation of functions applies to b (Board) & c (Executive Director), but not does not apply to d (General Counsel). This leaves upon the General Counsel's ability to go to court and defend the board.

2.4 Complaints. First, addition proposed was the creation of a statement of clarity to inform the public that there is no actual form. Second, revision proposed was to change language, found in 2.4 f. (now 2.4 e.), from De Minimis Complaints to De Minimis Violations.

2.14 Final Board Determinations. Revision proposed was the broadening of the term penalty to encompass all that organic statute allows. Organic statute allows for “penalties and remedies.” While those in attendance came to consensus that injunctive relief was not an available remedy, examples of the benefit of broadening language were given as increased monitoring ability.

## **V. Interim Executive Director’s Report**

### **A. Legislative Update**

#### **1. Nutter v. Dougherty et. al.**

Mr. Creamer report that on June 11, 2007, Appellants Fattah and Dougherty filed briefs in support of their appeal from the Commonwealth Court decision that upheld the City’s campaign finance law and reversed Judge Tereshko’s December 13, 2006 ruling. Appellees’ (City of Philadelphia and Michael Nutter) briefs are due on July 11, 2007. No date has been set for argument.

#### **2. City Council**

##### **i. Financial Disclosure Training for Candidates**

Mr. Creamer reported that Councilwoman Campbell withdrew Bill 020217, which would have required the Ethics Board to provide training to candidates four times per year on how to complete the State financial disclosure forms. Under the State Election Code, candidates must file the State financial disclosure from when they file their nominating petition with the City Commissioners.

Mr. Creamer also report that on June 7, 2007, Councilwoman Campbell replaced Bill 070217 with a package (Bills 070536 and 070537 and Resolution 070538) that would have required the City Commissioners to provide financial disclosure training to candidates and representatives of political committees. A hearing on the package was scheduled before the Committee on Law and Government on June 14<sup>th</sup>, but did not occur. The package included a Charter amendment that would require voter approval on the November ballot. Because the package was not heard by the committee

on June 14<sup>th</sup>, there is insufficient time for the package to be passed in time for the proposed Charter amendment to be placed on the November ballot.

ii. Lobbyist Registration Bill

Mr. Creamer reported that on March 8<sup>th</sup>, Councilman Frank Rizzo introduced Bill 070172, which would require lobbyists to register with the City. The Ordinance would grant jurisdiction to the Ethics Board to administer and enforce the law. The Board would also have the authority to issue advisory opinions on the law. The Bill has been referred to the Committee on Law & Government. The Bill has been deferred until the fall.

iii. Phoebe Haddon's Confirmation

Mr. Creamer reported that City Council confirmed Phoebe Haddon's appointment to the Ethics Board on June 7, 2007. Ms. Haddon fills the unexpired three-year term of Reverend Alyn Waller, who resigned due to time commitments in March.

3. General Assembly

i. Bill 116

Mr. Creamer stated that Representative Evan's Bill that would give Philadelphia the ability to enact campaign finance laws passed the House of Representatives and was referred to the Senate's State Government Committee on March 29, 2007.

ii. HB 1130

As reported at the May 8<sup>th</sup> Board meeting, HB 1130 was referred to the Committee on Urban Affairs on April 23<sup>rd</sup>. Mr. Creamer stated that it has not yet been rescheduled for a hearing. The Bill would prohibit the Ethics Board from requiring candidates for State office or Philadelphia ward committees from filing campaign finance reports electronically, rather than in paper.

B. Ethics Training Update

## 1. Citywide Ethics Training Progress

Mr. Creamer reported that over 23, 500 City officials and employees have received ethics training in the Citywide Ethics Training Program. A breakdown by Department follows:

Department Name	# of Employees in Department	# Of Employees Trained	# Of Employees Not Trained
Aviation	800	800	0
Bd of Pensions & Retirement	69	54	15
Bd of Revision of Taxes	186	156	30
Capital Program	69	69	0
City Controllers	128	128	0
City Planning Comm	55	48	7
City Treasurer	12	6	6
Clerk of Qtr Sessions	85	33	52
Commerce/City Representative	36	23	13
Dept. of Human Services	1850	1553	297
District Attorney	541	2	539
Fairmount Park	170	170	0
Finance/MBEC	182	182	0
Fire Department	2395	2395	0
Fleet Management	392	392	0
Free Library	850	850	0
Health Department	1400	939	461
Historic Commission	6	0	6
Labor Relations	6	6	0
Law	357	357	0
Licenses & Inspections	388	388	0
MDO	123	123	0
MOIS	114	23	91

Office Supportive Housing	186	186	0
OHCD	62	62	0
Phila Com on Human Relation	36	36	0
Personnel	83	83	0
Police	7290	7290	0
Prisons	2243	2243	0
Procurement	63	63	0
Public Property	181	181	0
Records	73	73	0
Recreation Dept	762	700	62
Register of Wills	68	43	25
Revenue Department	520	184	336
Sheriff Dept	247	247	0
Streets	1900	1900	0
Water Dept	1720	1551	169
Totals	25648	23539	2109

Mr. Creamer stated that the Personnel Department has verified all reported totals by tracking-back the reported numbers to training sign-in sheets.

## 2. City Council Training

Mr. Creamer reported that City Council was not originally included in the Citywide Ethics Training Program because it was not represented in the City's HR Training Consortium, which we used to coordinate ethics training by 163 trainers that were trained to deliver the ethics curriculum. However, Evan Meyer recently trained 179 out of 192 City Council members and staff in three sessions, on June 8<sup>th</sup>, 11<sup>th</sup> & 14<sup>th</sup>. All 17 members of council received the training. We will offer make-up sessions to those who were unable to attend any of the three sessions.

## 3. Closing the Training Gap Strategy

Mr. Creamer stated that he met with Personnel Director Tanya Smith on June 15<sup>th</sup> to discuss strategies to provide ethics training to approximately 2000 City employees who have not yet been trained. Outside of City

government, the Board must also provide training to the members of 81 boards and commissions.

Mr. Creamer said that according to the Personnel Department's list, all employees in 23 departments have received ethics training. There are 13 departments with incomplete training and one (the DA's Office), that has not yet started training. I will send letters to the department heads reminding them of the training mandate and suggesting that they contact Personnel if they need assistance or support to complete the training. Personnel will offer overflow training for all departments and support for those that intend to complete the training with their own staff.

Mr. Creamer said that he plans to schedule a number of training sessions for board and commission members over the summer. He is waiting for a current list of board and commission members from the Mayor's Office. Once he has the list, he will notify all members in writing and ask them to sign-up for one of the sessions.

#### C. "Plain English Explanation of the Campaign Finance Law

Mr. Creamer reported that a slightly modified version of "Plain English Explanation of the Campaign Finance Law" was republished on June 15<sup>th</sup>. It was on page D6 of the Philadelphia Inquirer and page 24 of the Daily News. It was also published in Friday's Philadelphia Tribune. The Board is required to publish a "Plain English" guide to the law every six months in the three newspapers with the largest circulation.

#### D. Campaign Finance Cycle 3 Filing Status Report

Mr. Creamer stated that Cycle 3 campaign finance reports were due on June 14<sup>th</sup>. As of June 18<sup>th</sup>, the Records Department has received 186 electronic filings (reports & statements). We are still reviewing the filings and the summary reports.

Mr. Creamer asked the Records Department to generate trend reports in certain categories, now that we have experience with three reporting cycles in an electronic format. For example, in Cycle 7, there were 7 campaign finance reports with more than 20 missing data entries, 5 such reports in Cycle 2 and only 2 reports with over 20 missing items in cycle 3. I have asked the Records Department to track other trends, including the number of

reports that had to be resubmitted in each cycle; the number of reports with data errors in each cycle and the number of reports that were filed on time in each cycle.

#### E. New Office Update

Mr. Creamer reported that Construction on the Board's new office began on June 4<sup>th</sup>. At this point, all walls have been framed and the electrical lines have been run. Furniture for eight offices; two conference rooms and chairs for the large meeting room have been ordered through PhilaCor. In addition, nine pre-fabricated cubicles have been ordered from Supply Source.

### **VI. Intern Report: Timothy Porter**

Mr. Porter introduced himself and stated that it is an honor and privilege to work for the Board of Ethics as a legal intern for the summer. Mr. Porter stated that he will be researching 527's and creating a Business Code of Ethics Manual which is mandated in The Philadelphia Code. Mr. Porter will also update the Board of Ethics website.

Mr. Porter and Larry White, consultant, gave a presentation on the Business Code of Ethics manual.

### **VII. Financial Disclosure Review**

There was a discussion among the Board regarding the process of reviewing Financial Disclosure Statements. Mr. Glazer stated that since the Board is not fully staffed that it will use a consultant to audit the Financial Disclosure Statements.

### **VIII. New Business**

There was no new business.

### **IX. Public Comment**

Zack Stalberg from the Committee of Seventy asked the Board of the doubling provision for the mayoral race would be eliminated since the candidate who the doubling provision was created for was no longer in the race.

Mr. Stalberg also asked for clarity on the governance of Fairmount Park Commission, which is moving through City Council. The new Commission is trying to adopt a Code of Ethics.

## **IX. Executive Session**

At the conclusion of New Business, the Board concluded the public session of its meeting and went into Executive Session.