

**Philadelphia Board of Ethics**  
**Meeting Minutes**  
September 16, 2015 - 2:00 p.m.  
One Parkway Building  
1515 Arch Street, 18th Floor

**Board Present**

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

**Staff Present**

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

Chair Reed recognized the presence of a quorum and called the meeting to order at 2:00 p.m.

**I. Approval of Minutes**

By a 4-0 vote, the Board approved the minutes for the public meeting held on July 15, 2015, as presented.

**II. Executive Director's Report**

**A. Settlement Agreements**

Mr. Creamer announced that since his report at the July Board meeting, the Board had approved and announced 23 Settlement Agreements, most of which concerned violations of the City's Campaign Finance Law in 2015 election-related activity. Each settlement agreement is available on the Board's website. While several of the agreements include findings of multiple violations, they fell into the following six major categories:

- **Nine** settlement agreements resolved violations of the City's Campaign Finance Law for the late filing of cycle 2 campaign finance reports, which are required to be filed two weeks before the primary election. These reports are an important part of the campaign finance disclosure process because they provide pre-election disclosure of contributions to and expenditures by candidates and committees. Mr. Creamer noted that reminder emails were sent to the Board's campaign finance distribution list before each campaign finance reporting deadline.
- **Four** settlement agreements resolved violations for the late filing of 24-hour reports. A 24-hour report is required to be filed when a candidate receives a contribution or pledge of \$500 or more after completion of the cycle 2 report and through Election Day. These reports are an especially important part of the campaign finance disclosure process because they serve as a "gap filler" and let the public know if a large contribution was received after the close of the cycle 2 report and before the election.
- **Three** settlement agreements resolved violations for the late filing of cycle 3 campaign finance reports, which are required to be filed 30 days after the primary election.

**APPROVED BY BOARD OF ETHICS ON 10/21/15**

- The Campaign Finance Law requires that a candidate for City elective office shall have no more than one checking account into which all contributions for that office must be deposited and from which all expenditures for that office shall be made. **One** settlement agreement resolved a violation of this single account requirement.
- **One** settlement agreement resolved violations of the Home Rule Charter's limitations on the political activity of City employees. **One** agreement concerned misstatements in a 2015 cycle 2 report.
- **Four** of the 23 agreements concerned acceptance of excess contributions. In one matter, the excess contribution was "passed through" another contributor and the candidate knew of the "pass through." In that matter, a penalty was imposed upon the candidate and the candidate was required to disgorge the excess contribution. In another matter, the candidate was not aware that the excess amount was "passed through" a political committee. No monetary penalty was imposed upon the candidate, but the candidate agreed to disgorge the excess contribution. In both matters, a penalty was imposed upon the primary donor responsible for the "pass through" contribution.

## **B. International Visitor**

Mr. Creamer noted that Board Staff were asked to participate in another international exchange opportunity coordinated through the U.S. Department of State. On September 1, 2015, Mr. Creamer, Ms. Massar, Mr. Perrin, Ms. Lin, Mr. Cooke and Mr. McHale met with Billow Isaak Hassan, a Mandela Washington Fellow, who is currently the principal budget officer in Mandera County in Kenya. Mr. Hassan has Bachelor's and Master's degrees in Finance. He spent six weeks with the Philadelphia Budget Office as a Professional Development Experience in the United States.

The Mandela Washington Fellowship Program began in 2014 and is the flagship program of President Obama's Young African Leaders Initiative (YALI). It provides 500 outstanding young leaders from Sub-Saharan Africa with an opportunity to advance their skills during a visit to various U.S. government agencies and provides support for their professional development after they return home.

Mr. Hassan is the founder of The Mandera Times, a monthly newsletter that seeks to bridge the information gap in Northern Kenya. He was especially interested in the Board's work because his goal is to fight corruption in the Kenyan government and to adopt good practices in public financial management and implement these in the two-year-old legislative assembly. Mr. Creamer said that Mr. Hassan's descriptions of corruption, including widespread nepotism, at the highest levels of the Kenyan government were disturbing.

### **C. Library Presentation**

Mr. Creamer said that the Free Library's Central Senior Services Office invited him to speak on August 26, 2015 about the Board and its role in City government. He described the Board's history and its responsibilities and achievements. Mr. Creamer noted that it is always a pleasure to speak to a group that's genuinely interested in the Board's work and asks many questions.

### **III. General Counsel's Report**

#### **A. Advisory Opinions**

Ms. Nayak announced that Non-public Board Opinion 2015-001 and Non-public General Counsel Opinion 2015-503 were recently issued and are in queue to be redacted.

#### **B. Informal Guidance**

Ms. Nayak summarized the informal guidance that Board Staff provided from July 4, 2015 through August 7, 2015.

#### **C. Meeting with Office of the Chief Integrity Officer**

Ms. Nayak stated that in mid-August, she and Associate General Counsel Diana Lin met with Chief Integrity Officer Stephanie Tipton and her associate, Krystle Baker. The meeting was an opportunity for Ms. Lin and Ms. Baker, who are new to their respective offices, to be introduced to what each office does and how the Board of Ethics and the Office of the Chief Integrity Officer interact with and support one another. The parties discussed referrals, including what inquiries the offices should refer to one another and how. It was an informative and productive meeting. Ms. Nayak said that the parties will likely meet again in the coming months.

#### **D. Staff Attorney Vacancy**

Ms. Nayak announced that in July of 2015, Ayodeji Perrin informed her that he would be leaving his position as Staff Attorney to pursue graduate studies. Ms. Nayak thanked Mr. Perrin for his excellent work and said that she will miss working with him. Ms. Nayak relayed to the Board Mr. Perrin's expression of how much he enjoyed and benefited from his time on the Board's Staff. Chair Reed noted that he wished to thank Mr. Perrin for the excellent services he provided to the Board. He also stated that the Board will miss him.

In light of Mr. Perrin's departure and the vacancy in the Staff Attorney position, Board Staff have publicly posted a hiring notice for the Staff Attorney position. Ms. Nayak provided a copy of the Staff Attorney position description to Board members. She noted that the description is posted on the Board's website, the City's Human Resources website, and lawjobs.com. Board Staff have also reached out to several local law schools to ask that the notice be posted with the schools' alumni lists. Ms. Nayak encouraged Board members to circulate the description to any attorney or group they think may be interested in the position. The Board has already received some responses to the job posting.

Ms. Nayak noted that the Staff Attorney position is critical to assist General Counsel Staff with fulfilling the large volume of required work. As such, at this time, she has made the hiring of a Staff Attorney one of her highest priorities.

Ms. Nayak said that Charter Section 3-806(g) empowers the Board to appoint its Executive Director and General Counsel and to appoint and fix the compensation of such other staff as may be required to meet its obligations. The Law Department has advised that the Board may delegate its authority to hire counsel-related staff to the General Counsel. The Board recently delegated its authority to hire counsel-related staff to Ms. Nayak when she hired the Associate General Counsel. The Board has also previously delegated to Ms. Nayak the authority to hire a Staff Attorney.

Ms. Nayak asked that the Board again delegate its authority to her to hire a Staff Attorney and to appoint and fix the compensation for the position at a salary not to exceed \$62,000. By a 4-0 vote, the Board approved Ms. Nayak's request and delegated to her the authority to hire a Staff Attorney and to appoint and fix his or her compensation at a salary not to exceed \$62,000.

Ms. Nayak said that she plans to update Board members during the hiring process. She noted that in addition to selecting a candidate, Board Staff will take the three additional steps that are required in the City's hiring process: a City-mandated background check; a City tax compliance check; and Finance Department approval.

**SUMMARY OF INFORMAL GUIDANCE PROVIDED, JULY 4, 2015 – AUGUST 7, 2015**

<b>General topic</b>	<b>monthly total # (ytd total)</b>	<b>phone</b>	<b>email</b>	<b>phone &amp; email</b>	<b>in-person</b>	<b>Subtopics</b>
Lobbying	28 (155)	23			5	<ul style="list-style-type: none"> <li>▪ Online account assistance</li> <li>▪ Expense report filing</li> <li>▪ Amending registrations and other filings</li> <li>▪ Registration, expiration, and termination requirements and processes</li> <li>▪ Application of lobbying law to independent boards and commissions</li> <li>▪ Valuing lobbying activity</li> <li>▪ Reporting requirements</li> <li>▪ Lobbyist affiliations and amending affiliations</li> </ul>
Campaign Finance	19 (415)	5	11	2	1	<ul style="list-style-type: none"> <li>▪ Initial deposit of money into a political committee</li> <li>▪ Transition and inauguration fundraising and expenditures</li> <li>▪ Disclosure of lost contributions</li> <li>▪ Filing process and requirements</li> <li>▪ Raising and spending money post-candidacy</li> <li>▪ Online registration</li> <li>▪ Reporting requirements for contributions</li> <li>▪ Campaign contribution limits</li> </ul>

**SUMMARY OF INFORMAL GUIDANCE PROVIDED, JULY 4, 2015 – AUGUST 7, 2015 (CONTINUED)**

Conflicts	9 (32)	3	2	3	1	<ul style="list-style-type: none"> <li>▪ Participation by candidate in City public service communication</li> <li>▪ Outside employment</li> <li>▪ General explanation of conflict rules</li> <li>▪ Disclosure and disqualification process</li> <li>▪ City employee applying to serve as member of a City board</li> <li>▪ Acceptance of commission from real estate purchase</li> <li>▪ Member of City board belonging to multiple bodies, including one City body</li> <li>▪ Grant award to City board member from whom City department seeks official action</li> <li>▪ Representation restriction</li> </ul>
Political Activity	6 (79)	1	4	1		<ul style="list-style-type: none"> <li>▪ Resign to run restriction</li> <li>▪ School District employees not subject to restrictions</li> <li>▪ Affinity group events</li> <li>▪ City employee’s operation of political committee prohibited</li> <li>▪ Treatment of out-of-date information regarding current City employee with former campaign position</li> </ul>

**SUMMARY OF INFORMAL GUIDANCE PROVIDED, JULY 4, 2015 – AUGUST 7, 2015 (CONTINUED)**

<b>General topic</b>	<b>monthly total # (ytd total)</b>	<b>phone</b>	<b>email</b>	<b>phone &amp; email</b>	<b>in-person</b>	<b>Subtopics</b>
Post-Employment	4 (22)	1	1	2		<ul style="list-style-type: none"> <li>▪ Relevant rules for City employee leaving City job</li> <li>▪ Former City employee’s interactions with City government and non-City government entities</li> <li>▪ Former employee working for vendor of former City department</li> </ul>
Gifts	2 (20)	2				<ul style="list-style-type: none"> <li>▪ Reimbursement for travel, food, accommodations, etc. for attending event reasonably related to employee’s expertise</li> <li>▪ Baby shower gifts from vendor co-workers to City employee</li> </ul>
Financial Disclosure	0 (789)					
Other	5 (55)	5				<ul style="list-style-type: none"> <li>▪ Legal status of Prison Board of Trustees</li> <li>▪ Ethics training</li> </ul>

*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. Campaign Finance Update**

Mr. Cooke provided a brief update to Board members regarding Board Staff's activities surrounding the upcoming November 3, 2015 General Election. Board Staff have begun the process of educating the regulated community about recent amendments to the City's Campaign Finance Law that increase the Law's disclosure requirements. Board Staff have:

- Sent an email to the Board's campaign finance email list of over 700 entities that explains the recent changes to the Campaign Finance Law and sets forth the upcoming filing deadlines.
- Notated Regulation No. 1 (Campaign Finance) to explain that it does not currently reflect the amendments to the City's Campaign Finance Law that went into effect on July 1, 2015 and posted it to the Board's website.
- Appended to the end of Regulation No. 1 two pages that: (1) explain the changes in the City's Campaign Finance Law, (2) provide upcoming reporting deadlines, and (3) explain who needs to file reports and when the reports need to be filed.
- Updated the Guide to the City's Campaign Finance Law to include the City Campaign Finance Law's new reporting requirements.
- Created a booklet that summarizes Philadelphia's campaign finance reporting requirements.
- Sent an email reminding filers that the Sixth Tuesday Pre-Election Report (Cycle 4) is due on September 22<sup>nd</sup>.
- Conducted a campaign finance training focused specifically on the City Campaign Finance Law's filing requirements and the mechanics of the filing software. Approximately twenty people attended the training. Board Staff have scheduled four more trainings, including one specifically on the filing requirements. The other three trainings will also address the recent amendments to the City's Campaign Finance Law.

In response to a question from Chair Reed, Mr. Cooke said that in 2016 he anticipated that Board Staff would begin the process of amending Regulation No. 1. The anticipated amendment will address the recent amendments to the City's Campaign Finance Law and, potentially, other changes resulting from Board Staff's experiences in the 2015 municipal elections.

Mr. Cooke said that he will keep the Board informed on Board Staff's education efforts.

#### **V. Draft Annual Report for Fiscal Year 2015**

Ms. Massar and Mr. Segall reviewed the contents of the Draft Annual and Financial Report for Fiscal Year 2015 with the Board.

Mr. Segall noted that the report is due on September 30, 2015 and covers all activity between July 1, 2014 and June 30, 2015. Mr. Segall explained that the report includes introductory messages from the Chair and Executive Director, Board member and staff biographies, and a review of the Board's major accomplishments during the year. The report summarizes some of the Board's major activities in Fiscal Year 2015 pertaining to: campaign finance, litigation, training, advice and informal guidance, and enforcement.

Ms. Massar noted that the Annual Report also provides an accounting of the Board's expenditures over the fiscal year. She explained that the Board spent a total of \$898,217 in FY 2015, which was less than the FY 2015 appropriation, primarily because of multiple staff vacancies throughout the year. She also noted that the total funds available in FY 2015 for the purchase of professional services, such as legal representation, would have been inadequate to cover the cost of outside attorneys if *pro bono* representation was not provided to the Board. As such, the fiscal report explains the very real possibility that a lawsuit or the need for professional services in a major investigative matter might quickly exceed the Board's appropriation for such services and therefore cripple the Board's ability to meet its statutory responsibilities.

Ms. Massar asked that Board members review the report and offer changes, if any, to her by Friday September 18, 2015. She noted that the Annual Report is still a work in progress and Board Staff continues to refine and proofread the draft. She noted also that the final report would be posted on the Board's website. Board Staff plan to notify all required recipients (the Mayor, City Council, the Chief Clerk of City Council, and the Department of Records) that the Report has been published on the Board's website. Paper copies of the report will be made available to anyone who requests one.

By a 4-0 vote, the Board approved the current draft of the Annual Report and authorized Chair Reed to make and approve subsequent edits, if necessary.

### **Merit Salary Increase**

Chair Reed stated that Mr. Creamer had asked that Mr. Segall receive a merit salary increase from his current annual salary of \$64,170 to an annual salary of \$69,000. Mr. Creamer asked that this salary increase be made retroactive to July 1, 2015. He also asked that the Board authorize Board Staff to submit the required paperwork to the City Finance Department's Hiring Committee.

Chair Reed noted that Mr. Segall joined Board Staff in July of 2014 and quickly became well versed in the Public Integrity Laws. Chair Reed said that Mr. Creamer has informed him that Mr. Segall has taken the lead on several investigations; he is thorough and detail oriented and displays strong interpersonal skills when interacting with witnesses, subjects of investigations, and opposing counsel; he is always willing to take on additional tasks, whatever their nature, which is important in an office as small as the Board; and he has also shown initiative in exploring ways for the Board to increase its outreach and education efforts.

In response to a question from Chair Reed, Mr. Creamer informed the Board that the proposed new salary of Mr. Segall would be approximately \$500 greater than the salary Mr. Segall was earning when he left the Office of the Inspector General, where he was previously employed.

Chair Reed said that he supported Mr. Creamer's request.

By a 4-0 vote, the Board approved the merit salary increase for Mr. Segall from \$64,170 to \$69,000 retroactive to July 1, 2015 and authorized Board Staff to submit the necessary paperwork to the Hiring Committee.

**VI. New Business**

There was no new business presented at the meeting.

**VII. Questions/Comments**

There were no questions or comments presented at the meeting.

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Chair Reed announced the following regarding Board sessions that have been held and will be held pursuant to Sections 708 and 716 of the Pennsylvania Sunshine Act:

1. Since the July 15, 2015 Board meeting, the Board held sessions regarding non-public advice by email from July 16, 2015 to July 28, 2015.
2. The Board also held sessions regarding confidential enforcement matters by email from July 20, 2015 to July 21, 2015; by email from August 17, 2015 to August 26, 2015 and by telephone on August 19, 2015; and by email from August 28, 2015 to August 31, 2015.
3. After the public meeting, the Board would meet to address non-public advice and confidential enforcement matters.

The public session of the Board meeting was adjourned at approximately 2:40 p.m.