

**Philadelphia Board of Ethics**  
**Meeting Minutes**  
October 16, 2007  
Board of Ethics  
Packard Building  
1441 Sansom Street, 2<sup>nd</sup> Floor  
1:00 pm

**Present:**

Board

Richard Glazer, Esq., Chair  
Phoebe Haddon, Esq.  
Stella Tsai, Esq.

Staff

J. Shane Creamer, Jr., Esq.  
Tina Formica  
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 September 26, 2007.

**III. Executive Director's Report**

**A. Legislative Update**

**1. City Council Bills 070795 & 070828**

Mr. Creamer announced that Councilman Rizzo introduced Bill 070795 on September 27th, which would prohibit City officers and employees from being

employed by outside firms or businesses that either have or are seeking contracts with the City. Certain teaching positions are exempt and the Ethics Board would be authorized to grant exceptions where it is in the interest of the City to do so.

Mr. Creamer also announced that Councilman Rizzo introduced Bill 070828 on October 4th, which would amend the Gift rule in Section 20-604 of the Ethics Code. Mr. Creamer explained that the proposed amendment would essentially codify the Mayor's gift ban in Executive Order 002-04. This would mean that the absolute ban on gifts from prohibited sources (with certain exceptions) would apply to all City officials and employees. The Ethics Board would also have jurisdiction to enforce the gift ban.

Mr. Creamer stated that previously, Councilman Rizzo introduced Bill 070705 on September 20<sup>th</sup>, which would amend the conflict of interest section of the Ethics Code (§20-607) by prohibiting City officers from taking any personnel action concerning a close relative. Earlier this year, on March 8<sup>th</sup>, Councilman Rizzo introduced Bill 070172, which would require lobbyists to register with the Ethics Board and to submit certain disclosure reports. The Board would have jurisdiction to enforce and to issue advisory opinions.

Mr. Creamer stated that all four Bills have been referred to the Law & Government Committee, but no hearing has been scheduled.

## **2. City Campaign Finance Law Litigation Update**

Mr. Creamer stated that on October 15th, the Pennsylvania Supreme Court heard argument on Congressman Fattah's and John Dougherty's Appeals from the Commonwealth Court's April 2<sup>nd</sup> Opinion that granted the appeals filed by the City and Michael Nutter from Judge Tereshko's December 13, 2006 ruling that the City's campaign finance law was invalid. The 6-1 majority opinion, written by Judge Doris A. Smith-Ribner, found that the City was not preempted from enacting political contribution limits for City elective offices.

### **B. Fiscal Report**

Mr. Creamer announced that the Board submitted its annual fiscal report to the Mayor and members of City Council on October 1<sup>st</sup>. Section 3-806(k) of the Philadelphia Charter requires the Board to submit an annual fiscal report no later than three months after the end of each fiscal year.

Mr. Creamer said that the fiscal report was submitted, even though it was unclear whether the Board was required to submit one for FY07, the Board was not a separate department for budget purposes because the new board was established in the middle of FY07. Instead, the Ethics Board's budget was subsumed into the Law Department's budget for FY 07.

Mr. Creamer also explained that the Board must submit an annual report pursuant to Section 20-606(1)(l)(i) that summarizes the proceedings and activities of the Board, a description of the education and training conducted, a summary and evaluation of complaints and referrals received and their disposition, such legislative and administrative recommendations the Board deems appropriate, the rules of the Board, and an index of the opinions and orders of the year.

### **C. Ethics Training Update**

#### **1. Board & Commission Ethics Training**

Mr. Creamer reported that the Board of Ethics has conducted four out of the five ethics training sessions offered to all board and commission members. The fifth session will be offered on October 17th. So far, 60 board and commission members have been trained. The sessions have been held at the Ethics Board's new office.

### **D. Litigation Update**

#### **1. Philadelphia Board of Ethics v. Appreciation Fund**

Mr. Creamer stated that Judge DiVito granted the Board's Petition for Contempt and to Enter Judgment on September 21<sup>st</sup>. That Order directs the Appreciation Fund to pay a civil penalty in the amount of \$39,000 within five business days. He also denied the Appreciation Fund's Petition to Open the Default Judgment and issued a supporting Opinion on October 1<sup>st</sup>.

### **E. Advisory Alert Update**

Mr. Creamer reported that since the Board's last meeting, copies of the September 26<sup>th</sup> Advisory Alert concerning how the attribution rules of the City's "pay-to-play" contract reform law affect hosts of political fundraising events was mailed to all candidates for City office, with a request that they forward it to their fundraisers. It was also emailed to the Board's media list and was also mailed to

the Greater Philadelphia Chamber of Commerce and the Philadelphia Bar Association. The Alert is also posted on the Board's web site.

#### **F. Personnel Update**

Mr. Creamer announced that Nedda Massar will start as Deputy Executive Director to the Ethics Board on Monday, November 12<sup>th</sup>.

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

#### **A. Informal Requests for Advice**

Mr. Meyer stated that there were five informal requests for advice since last month's meeting. One regarding a gift dinner (clearly prohibited, as having no business purpose other than to schmooze a potential client); one regarding post-employment restrictions (referred to standard advice); one regarding a lunch meeting at a law firm (permissible for the firm to provide lunch to allow the meeting to continue); a confidential request regarding an offer to be a speaker at an out-of-town conference with the host paying travel and accommodations (probably permissible as "gift to the City" under Solicitor's Opinion No. 93-8); and a similar request regarding travel on which he asked for clarification, as a number of factual details were missing.

#### **B. Board and Commission Training**

Mr. Meyer stated that, as noted in the Executive Director's Report, trainings for boards and commissions continue, with him being the lead trainer. Mr. Meyer has also continued to "tweak" the powerpoint and introductory exercise in response to the responses he receives from the training sessions.

Ms. Tsai asked if there was a specific area in the training where the board and/or commission members had a lot of questions. Mr. Creamer stated that the training has gone well and the members are involved and engaged. There have been a lot of questions, but not in one specific area of the training.

#### **C. Opinions and Regulations**

Mr. Meyer stated that he drafted proposed Opinions, redacted public versions of confidential opinions, and a regulation for the Board.

## **V. Proposed Regulation No. 3**

After a brief discussion among the board members on the proposed Regulation No. 3, Mr. Glazer asked if there were any questions or comments. Since there weren't any questions or comments a motion was made to approve the regulation. The motion was passed unanimously.

Mr. Glazer stated that according to Section 8-407(A) of the Charter the Regulation will be submitted to the Law Department for Approval. Once it is approved by the Law Department it will be posted with the Records Department for 30 days.

## **VI. Public Version of Confidential Opinion No. 2007-002**

After a short discussion among the board, a motion was made to approve the redacted version of confidential opinion No. 2007-002. The motion was passed unanimously.

## **VII. Application of Political Activity Restrictions in City Charter 10-107 to Boards and Commissions**

Mr. Glazer explained that the Board had insufficient information on the powers and authority of all Boards and Commissions. Therefore, it was agreed that Mr. Meyer would draft an opinion in response to L&I's initial request. The draft opinion was distributed to the Board members and discussed. A motion was made to approve the opinion. The motion to approve the opinion was passed, but it will include a cover memo to make the opinion clearer.

## **VIII. Newsletter**

Mr. Glazer announced that the Board of Ethics will be creating a monthly newsletter which will include aspects of the Board meetings, information on the Board, legislative updates and new hires. Issues of interest and ethical issues will be on the forefront.

After a brief discussion among the Board, it was decided that the newsletter will be sent out via email and it will also be posted on the website. Mr. Creamer suggested having an electronic sign up feature added to the website as well.

Mr. Glazer also announced that the Board retained an outside consultant, Paul Jablow, to work on the newsletter.

#### **IX. Gift Ban Reminder**

Mr. Creamer mentioned that in 2005 the former Mayor's Advisory Board of Ethics sent a letter to the vendors that do business with the city, reminding them about the city's gift ban policy. Mr. Creamer suggested that an Advisory Alert be sent to City vendors reminding them about the gift ban.

The Board members agreed with Mr. Creamer's suggestion, and it was decided that he will issue an Advisory Alert.

#### **X. New Business**

There was no new business to discuss.