

**Philadelphia Board of Ethics**  
**Meeting Minutes**  
September 26, 2007  
Board of Ethics  
Packard Building  
1441 Sansom Street, 2<sup>nd</sup> Floor  
3:00 pm

**Present:**

Board

Richard Glazer, Esq., Chair  
Phoebe Haddon, Esq.  
Rich Negrin, 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 August 21, 2007.

**III. Pauline Abernathy Resignation Announcement**

Mr. Glazer announced that Pauline Abernathy resigned as a member of the Board and accepted a position with the Nutter for Mayor campaign, as of September 19, 2007. Mr. Glazer stated that he contacted the Mayor's Office

for a replacement to fill the remaining 14 months of her 2 year term. According to section 3-806(c) of the Charter the Mayor must appoint another Board member by October 17, 2007.

Mr. Glazer expressed his gratitude for Pauline's distinguished service, enthusiasm and dedication which will be missed.

#### **IV. Executive Director's Report**

##### **A. Legislative Update**

###### **1. General Assembly: H.B. 1130**

Mr. Creamer stated that on September 5<sup>th</sup>, Richard Glazer, Evan Meyer and he met with members of the House of Representatives to discuss H.B. 1130. The meeting was facilitated by Brett Mandel of Philadelphia Forward. Representatives Sabatina, Youngblood, Cohen, Cruz, Blackwell, Payton, Mandarino and Roebuck attended the meeting. It was explained how the Bill would affect the Board's enforcement efforts and the Representatives explained the intent of the Bill. Mr. Creamer said that Mr. Glazer, Mr. Meyer and he left the meeting with a better understanding of their concerns, and that the Representatives left with a better understanding of how the Board depends upon the electronic campaign finance reports to fulfill its oversight mandate.

Mr. Creamer also stated that the Senate State Government Committee scheduled a public hearing for HB 1130 and HB 116 on September 13<sup>th</sup>, but the hearing was postponed.

###### **2. City Council Bill 070705**

Mr. Creamer stated that on September 20<sup>th</sup>, Councilman Rizzo introduced Bill 070705, 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. The Bill has been referred to the Law and Government Committee. No hearing has been scheduled yet.

Mr. Creamer also stated that 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. Bill 070172 was referred to the Law and Government Committee. It is likely that the Committee will schedule both Bills for the same hearing.

## **B. Ethics Training Update**

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

Mr. Creamer stated that five ethics training sessions have been scheduled for all board and commission members, beginning on September 27<sup>th</sup>. Evan Meyer will lead the training and he will assist. The sessions will be held at the Ethics Board's new office.

Mr. Creamer also stated that letters have been sent to the 81 board and commission chairs, explaining the training and asking them to advise their members of the requirement. The letter also explains that members can either sign-up electronically on the Ethics Board's website, or by mailing in a registration form that was enclosed with the letter. In the letter, the chairs were asked to provide Mr. Creamer with a mailing list of their members.

Mr. Creamer announced that, so far, 53 board and commission members signed-up for the training sessions. In addition, new Health Commissioner John Domzalski requested ethics training and will attend the session scheduled for October 2<sup>nd</sup>. Commissioner Domzalski started on September 24<sup>th</sup>.

## **C. Litigation Update**

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

Mr. Creamer announced that the Appreciation Fund filed a Response to the Board's Petition for Contempt and to Enter Judgment on August 28<sup>th</sup>. The Fund also filed a Petition to Open the Default Judgment, which the Board's lawyers have responded to.

In its papers, the Fund argues that it never received notice of a June 1<sup>st</sup> hearing before Judge DiVito. However, there was no hearing on that or any other date, because the Fund never responded to the Board's original Petition. Since there was no opposition to the Board's original Petition, Judge DiVito granted the Board's proposed Order as uncontested on June

1<sup>st</sup>. The Fund fails to explain why it failed to respond to the Board's original Petition, despite being properly served, or why it waited until after the Board filed a Petition for Contempt to seek any relief from the June 1<sup>st</sup> Order against it.

#### **D. COGEL Conference**

Mr. Creamer stated that the COGEL Conference 2007 was held in Victoria, British Columbia from September 16<sup>th</sup> -19<sup>th</sup>. Richard, Evan and he attended the Conference, which held 41 sessions over four days for the 319 attendees. Mr. Creamer spoke on a panel that discussed "pay-to-play" contract reform with Craig Holman, from Public Citizen, Joan Andrews, from the Connecticut State Elections Enforcement Commission and Mark Renaud, Esq., from Wiley Rein LLP.

#### **E. Records Management**

Mr. Creamer stated that Richard Glazer, Evan Meyer and he met with Kathleen Ewing, of Gable Consulting, on September 24<sup>th</sup>. Gable Consulting provides records and information management services to the City through a consulting contract with the Records Department. Commissioner Decker arranged for the meeting at their request, but was unable to attend.

Mr. Creamer also stated that after explaining the Board's file management and records needs, Ms. Ewing recommended that the Board work with a process improvement team to develop a file plan with an electronic index, procedures for handling documents and records, and to develop a document retention schedule. Ms. Ewing has reported her recommendation to Commissioner Decker, who agrees that the Board would benefit from working with a process improvement team.

Mr. Creamer announced that he is in the process of scheduling a meeting with the process improvement team, which will consist of Ms. Ewing and two other individuals from another consulting firm.

#### **F. New Office Update**

Mr. Creamer reported that ten cubicles were installed during the week of August 27<sup>th</sup>.

Mr. Creamer also reported that PhilaCor delivered 76 chairs and 21 out of 26 tables on September 22<sup>nd</sup>.

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

### **A. Amended Regulation No. 1**

Mr. Meyer stated that the amendment was intended to make Regulation No. 1 clearer. It applies to all City elected offices.

Mr. Meyer also stated that the amended Regulation was posted with the Records Department and became effective at midnight on Friday, September 21, 2007.

### **B. Informal Advice Role**

Mr. Meyer stated that he issued informal advice through 25 emails. Mr. Meyer gave a break down on the subject matter of the emails:

- Gifts 8
- Conflict of Interest 3
- Follow-up on Training 3
- Post employment 5
- Disqualification 1
- Outside employment 3
- Miscellaneous 2

## **VI. Public Version of Contribution Limit Advisory Opinion**

The Board was asked for a confidential opinion regarding whether contributions to a candidate's campaign committee that are received after an election for the purpose of retiring campaign debt are regulated by the contribution limitations of Section 20-1002 of the Philadelphia Code.

Mr. Meyer was asked to draft a public version of the contribution limit advisory opinion, which was distributed to Board members prior to the meeting. After a brief discussion, the Board unanimously approved the draft.

## **VII. Advisory Alert Addressed to Political Fundraisers**

Mr. Creamer reported that he issued an Advisory Alert that explains some of the attribution rules in the City's "pay-to-play" contract reform law. Mr. Creamer explained that he issued the alert after seeing an invitation to a political fundraising event with an extensive host committee. Under the attribution rule contained in Philadelphia Code Section 17-1405(5), all contributions raised at such an event would be attributed to each of the hosts, and, in turn, to the firms or businesses of the hosts, if they are partners, officers, directors or sole shareholders of the firm or business.

Mr. Creamer informed the Board that he issued the Advisory Alert to increase the awareness of the consequences of being on a Host Committee. Mr. Creamer advised the Board that he received some input from the Law Department and Susan Kretsge from the Managing Director's Office.

Mr. Creamer announced that the Advisory Alert was placed on the Board's website and that it would be mailed out to all City candidates. Ms. Tsai recommended that the Advisory Alert also be sent to the Philadelphia Bar Association and the Greater Philadelphia Chamber of Commerce.

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

After a discussion among the Board, it was decided that Mr. Meyer will draft language and bring it to the next board meeting. Mr. Creamer suggested finding out from the City's Budget Office which Board's and/or Commission's have authority to spend City money.

#### **IX. New Business**

There was no new business to discuss.