

Philadelphia Board of Ethics
Meeting Minutes
November 20, 2007
Board of Ethics
Packard Building
1441 Sansom Street, 2nd Floor
12:00 pm

Present:

Board

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

Staff

J. Shane Creamer, Jr., Esq.
Tina Formica
Nedda Massar
Evan Meyer, Esq. (via conference call)

I. Call to Order

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

II. Deputy Executive Director

Mr. Glazer announced that Nedda Massar has joined the staff as Deputy Executive Director. Ms. Massar has over 20 years experience with the New Jersey State Election law. She also served a one year term as the President of COGEL. On behalf of the Board, Mr. Glazer welcomed Ms. Massar.

III. Approval of Minutes

The Board approved the meeting minutes for the public meeting on October 16, 2007.

IV. Executive Director's Report

A. Legislative Update

1. City Council Bills

Mr. Creamer reported that City Council's Law & Government Committee scheduled a public hearing on the four ethics Bills introduced by Councilman Rizzo for November 13th. The Board was invited to present testimony at the hearing, which we were prepared to do. However, the hearing was canceled over concerns about whether there was sufficient time to pass the measures in the current legislative session, which ends on December 31st. Because that date also marks the end of a four-year Council session, any bills not passed by then will have to be reintroduced as new bills, which Councilman Rizzo has said he will do.

Mr. Creamer stated that one bill proposes a new lobbyist registration and disclosure law, while the three other bills would amend the substantive rules in the City's Ethics Code, which have not been changed since they were passed five decades ago.

2. City Campaign Finance Law Litigation Update

Mr. Creamer reported that there has been no decision by the Pennsylvania Supreme Court in the appeal filed by Congressman Fattah and John Dougherty from the Commonwealth Court's April 2nd 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 Court heard oral arguments on October 15th.

B. Regulation No. 3

Mr. Creamer announced that Regulation No. 3, which sets forth procedures for making referrals and cooperating with other law enforcement agencies, went into effect on November 16, 2007.

C. Ethics Training Update

1. Board & Commission Ethics Training

Mr. Creamer stated that the final ethics training session was offered to all board and commission members on October 17th. Mr. Creamer reported that 76 board and commission members from 22 boards and commissions were trained. All five sessions were held at the Ethics Board's new office.

D. Gift Ban Advisory Alert

Mr. Creamer stated that he drafted an Advisory Alert to all City vendors, reminding them of the gift ban under Mayor's Executive Order 002-04. The Board's staff are in the process of mailing the Advisory to 2910 vendors in Procurement's database, which represents all vendors who receive more than \$5,000 from the City. The Alert is also posted on the Board's web site.

E. Ethics Board Newsletter

Mr. Creamer announced that the Ethics Board's first Newsletter was published on November 9, 2007. It was emailed to our media mailing list and has been posted on the Board's web site. A sign-up feature had been added on the web site for individuals who are interested in receiving future Newsletters.

F. Contribution Limit Adjustment

Mr. Creamer stated that Section 20-1002(8) of the City's campaign finance law requires the Finance Director to calculate and certify adjustments to the contribution limits every four years, beginning on January 1, 2008. Accordingly, Mr. Creamer sent a letter to the Finance Director on November 15th explaining the requirement.

Mr. Creamer also stated that the contribution limits are adjusted by multiplying the contribution limits by an average consumer price index, rounded to the nearest \$100.

G. Personnel Update

Mr. Creamer announced that Nedda Masser started as Deputy Executive Director to the Ethics Board on Monday, November 19th.

V. General Counsel's Report

Mr. Glazer stated that since Mr. Meyer was not able to physically attend the Board meeting, his General Counsel report would be included in the minutes.

1. Informal e-mail advice. There were ten of these since last month's meeting:
 - a. Advising the Chair of the Pension Board on whether the Board's 2002 travel policy complied with ethics requirements.
 - b. Advising an official in Central Personnel on whether City employees may serve as "workers at the polls" on election day. Answer: The Election Code prohibits government employees from serving as an "election officer" (judge of elections or minority or majority inspector). So, no need even to address Charter §10-107.
 - c. Advising HR Manager for Health Dept. on post-employment restrictions on employees.
 - d. Fielded a number of inappropriate queries forwarded from the "Ask for Advice" or "Report a Concern" links at our web site (i.e., queries that did not involve issues of ethical rules applicable to City officials). Revised directions for those links to address this.
 - e. Advising an official in the Health Dept. whether employees could accept invitation to attend (free) a dinner hosted by ASPCA. Answer: No, it would be a prohibited gift under the executive order.
 - f. Advising Pension official whether official could accept invitation to attend (free) a dinner hosted by an investment manager. Answer: No, it would be a prohibited gift under the executive order.
 - g. Advising a City employee who owns food company whether his company could contract to provide food for City event. Answer: No, it would be a prohibited contract with the City under Charter Section 10-102.
 - h. Advising a Water Dept. employee on working at polls. See "b" above.
 - i. Advising Housing official who serves as OHCD's representative on committee of a local nonprofit whether official may accept free travel to

New York to attend meeting of national organization of the nonprofit.
Answer: Since this trip would have a governmental purpose, if appointing authority approves, travel is acceptable.

j. Advising Law Dept. counsel for Board of L & I Review on application of Ethics Board Opinion No. 2007-004 to that Board. In particular, advised that there is no such thing as a “waiver” or “variance” from an ethics requirement like Charter Section 10-107

2. Drafted several proposed amendments to the ethics bills before the Law & Government committee.

There was a discussion among the Board regarding 1d of Mr. Meyer’s report. The fields on the Ask for Advice and Report a Concern links on the website were changed to be required fields because Mr. Meyer was receiving anonymous requests for advice that he could not respond to. The Board decided to keep the requirements on the Ask for Advice link, but wanted them removed from the Report a Concern link because they want to field whistleblowers.

VI. Applicability of Political Activity Restrictions in City Charter §10-107 to All Boards & Commissions

Mr. Glazer stated that the Board issued an Opinion regarding this issue, but it was restricted to four boards that fall under Licenses & Inspections. There was not enough time to explore and understand whether Section 10-107 will be applicable to all Board and Commission members.

Mr. Glazer asked for the Board’s approval for Mr. Meyer to draft an Opinion on the political activity restrictions for the remaining Board and Commission members. After a brief discussion it was decided that Mr. Meyer will draft a proposed opinion to be discussed at the next Board meeting.

VII. Annual Report

After a brief discussion regarding the Annual Report, the Board asked Ms. Massar to research possible legislative recommendations concerning the Conflict of Interest, Disclosure and Disqualification, and Financial Disclosure sections of the Code.

VIII. Summary Report on the 2008 Election

Mr. Glazer stated that he would like the Board to create a summary report regarding the overall performance of the Board during the recent Election cycle. Mr. Glazer said he will talk to the Board's consultant, Paul Jablow, about creating the report.

IX. New Business

Mr. Creamer wished the Board a Happy Anniversary, which was on November 16th.

Mr. Glazer said the Board will start hiring staff now that Ms. Massar is on staff.

X. Questions/Comments

Bob Warner from the Daily News asked that in wake of the Opinion that was sent to the L&I Commissioner, has the Board received an informal or formal request challenging the Board's authority?

Mr. Meyer responded that he received one informal email and he referred them to the Opinion.