

Philadelphia Board of Ethics
Meeting Minutes
January 16, 2007
Philadelphia Bar Association
ARAMARK Building, 11th Floor
1101 Market Street, Philadelphia PA
1:00 pm

Present:

Board

Richard Glazer, Esq., Chair
Pauline Abernathy
Stella M. Tsai, Esq.
Rev. Dr. Alyn E. Waller

Staff

J. Shane Creamer, Jr., Esq.

Law Department Advisor

Evan Meyer, Esq.

After recognizing that a quorum was present, the Chair convened the meeting. Before beginning business, the Chair expressed his appreciation to the other Board members for advancing the work of the Board in his absence.

I. Approval of Minutes

The Board approved the meeting minutes for the public meeting on the December 18, 2006.

II. Los Angeles City Ethics Commission – Richard Glazer

While in Los Angeles in December, Mr. Glazer reported that he had the opportunity to meet with LeeAnne Pelham, Executive Director to the Los Angeles City Ethics Commission.

Mr. Glazer noted that Ms. Pelham was generous with her time and that he received a warm welcome. Mr. Glazer commented that Ms. Pelham's hospitality was emblematic of the prevailing attitude among ethics organizations around the country. He said that there is a sense of camaraderie within the relatively small community.

Mr. Glazer reported that he learned that the LA City Ethics Commission was established in 1990. Ms. Pelham has worked in the area for 20 years and has been the Executive Director in LA for 10 years. Mr. Glazer pointed out that both she and Mark Davies, Executive Director to the New York Conflict of Interest Board, testified at a City Council hearing in Philadelphia at Councilman Nutter's request.

Mr. Glazer said that Councilman Nutter's former Chief of Staff, Julia Chapman, was involved with drafting Philadelphia's law and had told him that they used LA and New York as their primary models. There were two controversial issues: guaranteed funding and an independent counsel. According to Ms. Chapman, many municipal ethics programs use their city's law department.

Mr. Glazer reported that LA has a \$2.8 million budget and that it has 31 full-time employees. The Commission is currently in City Hall, but was previously in an outside office, which it eventually outgrew.

Mr. Glazer then circulated an organization chart for the LA Commission. He explained that it was not divided into substantive areas of responsibility, but instead is organized by procedural areas. For example, Mr. Glazer said that responsibilities for lobbying fell into several categories, rather than having its own separate division.

LA's enforcement director is originally from New York City. Ms. Pelham advised Mr. Glazer to be sensitive with enforcement regulations. In LA, they are based upon California Administrative Law, which can be cumbersome.

LA is currently exploring a “less legal” process. Ms. Abernathy said that those enforcement concerns were consistent with what she had heard from a Commission member she is acquainted with and has spoken to recently.

In terms of growth, Mr. Glazer said that the LA Commission began operations in the spring of 1991 and had 16 employees by that December.

In terms of potential resources for the Board, Mr. Glazer said that Ms. Pelham suggested New York, Seattle, and San Diego. She also recommended COGEL and the Campaign Finance Institute. She also told him that the American Society of Public Administrators has an ethics division and a list of resources on its web site. She also mentioned that Carroll Corson in Massachusetts had good resources that the Board could refer to.

Mr. Glazer said that the LA Commission has four full-time auditors who look for efforts to circumvent the contribution limits, which they refer to as “money laundering.”

In terms of penalties, the LA Commission can issue fines and has the power to remove public officials from office, but Ms. Pelham said that the removal power had never been used in the Commission’s history. The Commission can initiate investigations on its own initiative.

Mr. Glazer said that the LA Commission’s web site had much information, including job listings and manuals, and he encouraged Board members to take a look at it when they had the opportunity.

III. Interim Executive Director’s Report

1. “Plain English” Explanation of the Campaign Finance Law

Mr. Creamer reported that the “Plain English” Explanation of the City’s Campaign Finance Law that was approved by the Board at the December 18th meeting was published in the Inquirer, Daily News and the Tribune on Friday, January 12th. The total cost for publishing it in the Inquirer and Daily News was approximately \$2,400, but we will not know the actual cost until the City receives its monthly bill from the papers.

Mr. Creamer explained that the Board was required to publish a “plain English” explanation of the campaign finance law by January 15th under Section 20-1007. The Board is also required to post the explanation on the City’s web site at all times. The explanation must be published at least every six months in the three newspapers with the largest circulation.

The next publication deadline is June 15, 2007, however, Mr. Creamer recommended that the Board publish the explanation before the primary on May 15th. He also suggested that the Board consider publishing the explanation in the Legal Intelligencer and/or the Philadelphia Business Journal.

2. Single Committee/Account Letters to Candidates

Mr. Creamer said that the Board indicated that it would issue written requests to candidates asking them to identify their single committee and account pursuant to Section 20-1003 of the Campaign Finance Law in Advisory Opinion 2006-003.

On January 11th, Mr. Creamer said that he delivered letters to each of the four declared candidates for mayor that asks them to provide information about their single committee and account. A copy of the Campaign Finance Law was enclosed with each letter.

Mr. Creamer said that he will send similar letters to all candidates for city elective office as soon as they declare their candidacy.

3. Regulation No. 1: Electronic Filing Update

Mr. Creamer reported that Evan Meyer delivered Regulation No. 1 to the Records Department immediately after it was approved by the Board at the December 18th meeting. The Records Department arranged for its publication as required by section 8-407 of the City Charter. To date, Mr. Creamer said that there had been no comments submitted to the Records Department. If that continues, the Regulation will take effect tomorrow, he added.

4. Web Site Changes

Mr. Creamer said that significant changes to the Board's web site had been made since the last meeting.

Mr. Creamer explained that the center section of the home page has been replaced with three new sections. The first is a brief description of the Board with a link to more information. The second section contains a brief description of the ethics rules and has links to the rules, the list of "ten things every city employee should know about the ethics rules" and the gift FAQs. The third section contains a brief description of the city's campaign finance law and has links to the law, the Records Departments database, the "plain English" explanation of the law, the campaign finance FAQs and the Board's advisory opinions.

Mr. Creamer also stated that a "recent" list on the right side of the home page had been added that lists the dates of recent Board actions with links to the activity. As the Board posts more actions, the older activities listed will be transferred to the "archives" section.

Finally, Mr. Creamer said that the Board's meeting schedule for 2007, which was published on January 12th has been posted on the site. There is a link to the Board's meeting schedule below the "next meeting" section, which lists the date, time and location of the next Board meeting.

5. Letter to the Editor

The Inquirer published Mr. Creamer's letter to the editor as the "featured letter" on Friday, January 5th. Mr. Creamer said that the letter summarized the ethics reform measures over the past year, listed the Board's actions and explained that the city's campaign finance law was still in effect, notwithstanding the court's ruling on December 13th.

6. Training for Candidates and their Treasurers

Mr. Creamer said that he was scheduled to meet with Lewis Rosman of the Law Department on January 22nd to develop the content for a campaign finance training session for candidates and their treasurers. Mr. Creamer said that he will attempt to schedule a large conference room at Philadelphia

Community College for the training session. Mr. Creamer said that he hopes to offer the training by early February.

7. Space Planning Update

Mr. Creamer said that he and Mr. Glazer are scheduled to meet with representatives from Public Property and with the Packard Building's architect on January 17th to discuss the layout option for our space on the second floor in that building.

IV. Philadelphia Bar Association Board of Governors Meeting – Stella Tsai

On January 12, 2007, Ms. Tsai gave a PowerPoint presentation to the Bar Association's Board of Governors. Her presentation described the Board, its members & duties and outlined the campaign finance law and contracting procedures.

Ms. Tsai also mentioned that she attended a presentation By City Solicitor Romulo Diaz and Lewis Rosman of the Law Department at the Greater Philadelphia Chamber of Commerce on January 10, 2007. She reported that Judge Tereshko's recent ruling had caused some confusion in the business community in regard to the contracting rules, which were not affected by the ruling. Ms. Tsai suggested that the Board should try to reach out to the business community.

V. New Business

1. Public Comment

Mr. Glazer recognized that Mr. Zack Stalberg, Executive Director to the Committee of Seventy was interested in addressing the Board, and invited Mr. Stalberg to speak.

Mr. Stalberg asked for the Board's position on hiring an independent general counsel. He said that the Committee of Seventy supported an independent general counsel for the Board, but that one of the candidates for mayor had recently said at a press conference that he was opposed to it.

Mr. Creamer explained that, under the law, the Board is required to hire an independent general counsel in addition to an executive director. He also explained that the Board is not bound by the ethics opinions of the Solicitor, which makes the Board independent of the Solicitor's office when it comes to interpreting the ethics code.

However, on questions involving interpretation of the State Ethics Act, Mr. Creamer explained that city employees could choose to go to the Solicitor for an opinion under the city's law. Mr. Creamer said that provision was most likely added because, under a provision in the State Ethics Act, municipal officials and employees who follow the written advice of a Solicitor will not be penalized if that advice later turns out to be incorrect.

VI. Executive Session

The Board then convened its executive session.