

**Philadelphia Board of Ethics**  
**Meeting Minutes**  
**Public Session**  
*January 11, 2006*  
Municipal Services Building  
Room 16 B  
5:00 – 7:00 PM

**Present:**

Board

Charisse R. Lillie, Esq., Chair  
Daniel P. McElhatton, Esq., Vice Chair  
Romulo L. Diaz, Jr., Esq., Member

Staff

Evan Meyer, Esq.  
J. Shane Creamer, Jr., Esq.

Guests

Susan Kretsge  
Francois Dutchie  
Joan Decker  
Jihad Ali

**Agenda:**

**I. Approval of Minutes**

The Board approved the meeting minutes for the public and executive sessions of the December 12, 2005 meeting.

## **II. Contract Reform Project Update**

Susan Kretsge, Deputy Managing Director, and Francois Dutchie, Esq., from the Law Department, gave a presentation to the Board on the City's Contract Reform Project. The Contract Reform Project was initiated by the Managing Director to enhance competition in City contracts and to develop an implementation plan for the new regulations for qualifying no-bid contracts. Those regulations will take effect on February 1, 2006. Ms. Kretsge last spoke to the Board about the project at the November 11, 2005 Board meeting.

Mr. Dutchie told the Board the Law Department was working closely with the Managing Director's Office to ensure that a system for handling no-bid contracts would be in place by February 1<sup>st</sup>. In addition to answering questions about the new regulations, the Law Department was also participating in a user group with several other departments. Training for the Law Department was conducted on January 10, 2006. The Law Department is also working to identify all "City related agencies" that are captured by the new law, but Mr. Dutchie explained that the identification process required a fact-based determination for each agency.

Mr. McElhatton asked whether a list of affected City related agencies could be supplied to the Board, when it is available. Some of the factors include: whether it is a quasi-municipal entity; whether it is created by ordinance; whether it is controlled by the Administration; and whether it receives funding from the City.

Ms. Kretsge explained that a web site for the project would be in place by February 1<sup>st</sup>. It will include links to the relevant Code sections; a vendor procedure manual; and an explanation of the new requirements. All contracting opportunities will be posted on the site. Ms. Kretsge noted that there are relatively few contracts in February, which will give them a good opportunity to test the new system and receive feedback from vendors. Ms. Kretsge added that nothing like this has ever been done before.

Ms. Lillie noted that transparency would require a broad outreach effort, and asked what was being done to ensure that vendors and the public understood the new procedures and requirements for qualifying no-bid contracts. Ms. Kretsge said that a lot of thought had gone into the outreach plan and that a

letter would be sent to all vendors. She also indicated that they were considering advertisements to supplement their outreach effort.

### **III. Financial Disclosure Automation Project**

Records Commissioner Joan Decker gave a PowerPoint presentation to the Board on the Records Department's efforts to develop an electronic system for filing financial disclosure statements. Currently, she explained, paper disclosure forms are scanned and bar coded by her office. They are then loaded into a database that can be searched in a very limited fashion. The database is also capable of generating some reports. Beginning in 2006, the Records Department plans to move the disclosure process towards a more automated system.

In 2006, there will be three modes of disclosure: (1) paper; (2) paper with bar coded cover sheets; and (3) electronic. Ms. Decker explained that her Department is piloting an electronic disclosure system with a group in the Law Department. The electronic system was developed for the Records Department by a consultant that also created the database of scanned disclosure forms. Participants in the pilot will file directly online. This will streamline the internal processing of the disclosure statements and will eliminate paper handling and manual data entry.

For most City employees who are required to file annual disclosure statements, but who are not participating in the pilot program, bar coded cover sheets will be emailed to them. The individuals will then print the bar code and submit it as a cover sheet for their disclosure forms when they file with the Records Department. The bar code will enable certain fields in the database to be populated automatically. This will reduce both the amount of manual data entry and the possibility for data entry error.

Ms. Lillie asked whether the City would always have a provision for paper filing of disclosure forms. Ms. Decker said that there would be and added that the paper forms would then be scanned into the database, as they were in 2005.

Mr. McElhatton recalled the Board's first meeting when Ms. Decker briefed the Board on the financial disclosure system and noted that she and her Department have made tremendous advances.

Financial disclosure forms are due on May 1, 2006.

#### **IV. New Ethics Legislation Task List and Timeline**

Mr. Creamer prepared a task list and timeline that is based on the recently passed package of ethics legislation. The list and timeline were prepared in an effort to anticipate the requirements under the new legislation and to facilitate a smooth transition to the new ethics board, in the event that voters approve the ballot question on May 16, 2006. Mr. Creamer presented the following list and timeline to the Board:

##### **Tasks with Specified Dates or Time Intervals:**

- **April 17, 2006:** Deadline for Mayor to issue a proclamation giving at least 30 days' notice of the election (Bill 040769: Section 5).
- **Week of April 24, 2006:** Clerk of Council must publish the proposed amendment to the Charter in three papers of general circulation (Bill 040769: Section 4).
  - The Clerk must publish the proposed amendment once a week during the three weeks preceding the election (the weeks of April 24; May 1; and May 8).
- **May 16, 2006:** Election Day. The following question shall be placed on the ballot:

“Shall the Philadelphia Home Rule Charter be amended to provide for the creation, appointment, powers, duties and annual funding for an independent Board of Ethics which shall administer and enforce all ordinances pertaining to ethics?”  
(Bill 040769: Section 2).
- **Within 60 Days of the Effective Date (some time after July 15<sup>th</sup>):** All Department Heads must provide a copy of the Ethics Code to all employees.
  - **New employees thereafter:** must receive a copy of the Ethics Code within 10 days of becoming an employee.
  - **Upon receipt:** All employees must sign a written statement that they have read the rules and will conform to them. The

statement must be placed in their personnel file. (Bill 01024 Section (1)(ii)).

- **Note:** A written statement for employees to acknowledge that they have read the ethics rules and will conform to them should be prepared and distributed to all department heads within 60 days of the effective date.

➤ **Within 90 Days of the Effective Date (some time after August 14<sup>th</sup>):** All appointments to the Board shall be made. (Resolution 040817 Section 3-806 (a) & (b)).

- Board members are appointed by the Mayor, with the advice and consent of City Council.
  - **Note:** City Council’s current session will end in mid-June (no date has been set at this time).
- Board members must be residents of, *or* have their primary place of business in, the City *and* registered to vote.

➤ **Within 30 Days After Initial Appointments are Made and Confirmed:** The Board shall convene its first meeting. (Resolution 040817 Section 3-806(i)).

- The Board is also required to meet at least quarterly.
- **Note:** The members of the Board elect a chair and such other officers as deemed necessary (Resolution 040817 Section 3-806(a)).

➤ **Within One Year of the Effective Date (some time after May 16, 2007):** All elected City Officers, all cabinet members, all City department heads, and all board and commission members, and their respective staff members, shall participate in an educational and training program conducted by the Board. (Bill 051024 Section 20-606 (1)(iii)).

- **Note:** Section 20-606(1)(b)(i) requires the Board to conduct “routine and mandatory” educational and training programs for all City officers and employees.

➤ **Annually:** The Board must submit an annual report to the Mayor and City Council. (Bill 051024 Section 20-606(1)(l)(i)).

- The annual report must include a summary of 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 that year.

- **By September 30<sup>th</sup> Each Year:** The Board must submit an annual fiscal report to the Mayor, City Council, the Chief Clerk of City Council, and the Department of Records (“not later than three months after the end of each fiscal year”). (Resolution 040817 Section 3-806(k)).

**Tasks without Specified Dates or Time Intervals:**

- **Hire an Executive Director, Counsel and Staff:** The Board must appoint and fix the compensation of an executive director and such other staff and consultants as may be required to exercise its powers and fulfill its obligations. The Board shall also hire a counsel. The appointments of the executive director and the counsel require a vote of three members of the Board. (Resolution 040817 Section 3-806(g)).
- **Develop Regulations for Adjudicating Alleged Violations:** The Board shall, by regulation, provide for adjudication of alleged violations, insuring that notice and an opportunity to be heard are provided prior to any final decision by the Board. (Bill 051024 Section 20-606(1)(h)).
- **Develop a Procedure for Rendering Informal Advice:** The Board must develop procedures for all City officers and employees to obtain informal guidance and assistance in understanding and maintaining compliance with the standards of conduct and ethics. (Bill 051024 Section 20-606(1)(b)(iv)).
- **Issue Rules and Regulations for Financial Disclosure Filings:** The Board must issue rules and regulations concerning the filing of statements of financial interest. (Bill 051024 Section 20-606(1)(e)(ii)).
  - **Note:** All statements of financial interest must be filed with the Board. (20-606(1)(e)(i)). However, statements for 2006 must be filed by May 1, 2006, which is at least several weeks prior to the effective date.

- **Develop an Electronic System for Receiving Campaign Finance Reports:** Candidates must submit the same financial information filed with the City Commissioners or with the Secretary of the Commonwealth, in an electronic format mandated by the Board. (Bill 050014 Section 20-1006(1)).
  - The Board must also develop a written receipt form that must be issued upon receipt of such filing.
  - **Note:** This Ordinance is effective immediately. Until certification of the approval by the electors of the amendment to the Charter, the duties of this Ordinance must be carried out by the Department of Records.
  
- **Develop a Searchable Database for Posting the Campaign Finance Reports on the Web:** The Board must post all campaign finance information on the City's web site within five business days of receipt, in a searchable format (by candidate, political committee, by contributor and by any other means determined by the Board by regulation. (Bill 050014 Section 20-1006(2)).
  - **Note:** This Ordinance is effective immediately. Until certification of the approval by the electors of the amendment to the Charter, the duties of this Ordinance must be carried out by the Department of Records.
  
- **Advising Candidates:** The Board must work with the City Commissioners to devise an efficient means of advising candidates, treasurers, political committees and other persons of the requirements of this section and to devise a means of coordinating the activities of the Board of Ethics with the duties of the City Commissioners to receive, file and promptly make available for public inspection all required reports filed by candidates, treasurers, political committees and other persons. (Bill 050014 Section 20-1006(3)).
  
- **Develop a Code of Ethics Manual:** The Board must prepare and disseminate educational materials, including a Code of Ethics Manual. (Bill 051024 Section 20-606(1)(b)(i)).
  
- **Conduct Routine and Mandatory Ethics Training:** The Board must develop and conduct routine and mandatory educational and training programs for all City officers and employees. (Bill 051024 Section 20-606(1)(b)(i)).

- **Develop a Code of Business Ethics Manual:** The Board must develop, in conjunction with the Procurement Commissioner, a code of business ethics manual. (Bill 051024 Section 20-606(1)(c)).
- **Offer Education Programs for Businesses:** The Board must conduct education and training programs for use by all businesses that may conduct business with the City. (Bill 051024 Section 20-606(1)(c)).
- **Recommend Improvements:** The Board shall, whenever it deems necessary, make recommendations to the Mayor and City Council that will improve the administration and enforcement of the ethics rules, including any legislative changes that will help strengthen or clarify the standards of conduct and ethics. (Bill 051024 Section 20-606(1)(l)(ii)).

With respect to the requirement that all employees sign a written statement, Mr. Diaz suggested that paperless written statements would be best, assuming the technology could be adapted for the requirement.

Mr. Diaz noted that there is much to be done under the new legislation that will be challenging to accomplish and will have a cost. He suggested that the Board should determine the best way to ensure that the Ethics Board is in the budget process. Mr. Creamer said that he would contact the Budget Office to learn more about the budgeting process.

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

### **1. Legislative Update**

On December 15, 2005, the Mayor signed the five ethics measures (four bills and one Resolution) that were approved by City Council on December 1<sup>st</sup>.

### **2. Managing Director's Commissioners' Meeting**

On January 4, 2006, Mr. Creamer was invited to speak at the Managing Director's Commissioners' Meeting on the recently passed ethics legislation. Mr. Creamer reported that he provided them with an overview of the new Ethics Board that will be created, subject to voter approval of the ballot

question on May 16, 2006. Mr. Creamer said that he emphasized provisions that will impact them directly, such as the requirement that all City department heads must provide a copy of the ethics code to all employees within sixty days of voter approval of the ballot question. All employees must then sign a certification that they have read the rules and will conform to them.

The Managing Director has asked Mr. Creamer to attend the monthly Commissioners' Meetings to provide ethics updates.

### **3. Ethics Training Update**

An eighth and final "Train the Trainers" session was conducted on December 14, 2005. In that session, approximately 80 trainers for the Department of Human Services were trained to provide ethics training. The Personnel Department reports that there are now just over 300 trainers qualified and trained to provide ethics training to the City's workforce.

Mr. Creamer reported that ethics training schedules have been submitted from the following Departments:

- Police Department
- Health Department
- Public Property
- Department of Human Services
- Prisons Department
- Office of Fleet Management
- Licenses & Inspections
- Free Library
- Water Department
- Airport (Training has been completed for all 849 employees)

The Law Department lawyers receive annual ethics training each July, through its Continuing Legal Education Program (last conducted on July 27, 2005). Central Personnel will train Law Department staff. Training schedules from the following departments were still outstanding:

- Streets Department
- Fire Department

- Human Relations
- Department of Recreation

Mr. Creamer said that he is working with the Managing Director's Office to ensure that these schedules are submitted promptly.

Finally, Mr. Creamer explained that the following departments are being trained by the Personnel Department:

- Labor Relations
- MOIS
- Capital Program's Office
- Records Department
- Personnel Department
- City Controller's Office
- Board of Pensions
- City Planning
- City Representatives
- City Treasurer

#### **4. Web Site Update**

Since the last Board meeting, Mr. Creamer said that the Board's public meeting minutes for the meetings from May through November 2005 have been added to the web site. Personnel's 2006 ethics training schedule and the Solicitor's Opinion on the Campaign Finance Law have also been added. Mr. Creamer said that there are hyperlinks to the Solicitor's Opinion in the "Campaign Donation Limits FAQs." There is another link to the Opinion on the Publications page. The "Recent Legislation" chart has also been revised to reflect the recently approved and signed ethics bills.

#### **5. DOJ Antitrust Awareness Training Update**

Mr. Creamer reported that Ed Panek trained the School District Procurement officers on December 13<sup>th</sup>. The District's Inspector General also attended that training session. He was scheduled to train the City's Procurement Department today (January 11<sup>th</sup>). Mr. Panek is now seeking introductions with more operating departments in the City. Mr. Creamer reported that he is working with the Managing Director's Office to arrange a meeting.

## **6. Campaign Finance Disclosure**

On December 23<sup>rd</sup>, Mr. Creamer met with Records Commissioner Joan Decker and Lewis Rosman to discuss implementation strategies for the new campaign finance disclosure provisions in Bill 050014, which was passed by Council on December 1<sup>st</sup> and signed by the Mayor on December 15<sup>th</sup>.

That law requires candidates, treasurers and political committees to submit the same financial information that is filed with the City Commissioners and the Secretary of the Commonwealth with the Ethics Board, “in an electronic format mandated by the Board of Ethics.” The Board must post the information on the City’s web site in a searchable format. Until voters approve the Charter amendment on May 16<sup>th</sup>, the duties under the ordinance are to be carried out by the Department of Records. Mr. Creamer explained that this law presents several challenges.

First, there is the issue of identifying who must submit information to the Board. The law is not clear about which offices are included. Once the offices are identified, an effort must be made to inform the candidates about the new requirements. At the same time, we must develop a technology strategy to implement the new law. The Records Department is exploring different technological options.

### **VI. Guest: Mr. Jihad Ali**

Mr. Jihad Ali, from the Contractors’ Roundtable Council, attended the Board meeting and was invited to speak to the Board. Prior to the meeting, Mr. Ali had sent an email to Mr. Diaz asking a question about a potential conflict of interest. That email was forwarded to Mr. Creamer and was responded to. Mr. Ali thanked Mr. Romy for the response. He also explained what the Contractors’ Roundtable Council was and expressed interest in learning more about the new contract reform measures. Mr. Creamer said that he would follow-up with him on any information that becomes available on the new contract regulations.

### **VII. New Business**

There was no new business.