Philadelphia Board of Ethics
DRAFT Meeting Minutes
Public Session
May 10, 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.

Guest
Joan Decker, Records Commissioner

Agenda:

I. Approval of Minutes

The Board approved the meeting minutes for the public and executive sessions of the April 12, 2006 meeting.

II. Financial Disclosure Statement Filing Update

Records Commissioner Joan Decker provided the Board with a preliminary status report on the 2006 financial disclosure statement filings, which were due on May 1, 2006.

Commissioner Decker reported that a total of 3,725 disclosure forms were filed with the Records Department before the deadline. This included 252 more forms than were filed in 2005. In addition, Commissioner Decker said that her Department received more forms earlier in the cycle, which facilitated processing. She attributed the increased compliance to ethics training and awareness efforts.

III. Campaign Finance Report Update

Commissioner Decker also provided the Board with an update on the new Campaign Finance Report Database. Commissioner Decker told the Board that 42 campaign finance reports were filed with the Records Department before the May 5th deadline, and that some additional reports were filed after the deadline. However, none of the filers used the online submission option.

Ms. Lillie asked whether the City would reach a point where all reports would be filed online. Ms. Decker said that it would and added that it is required under the law. Ms. Decker also confirmed that the system is compatible with the electronic formats offered by state-approved vendors of campaign finance programs that are used by some candidates.

IV. Schimmel Lawsuit

Mr. Diaz provided the Board with an update on the litigation over the application of the campaign contribution limits to putative candidates for mayor. There are two lawsuits. The first suit was filed by Allan Schimmel against potential candidates for the 2007 mayoral election. Councilman Nutter filed the second suit against the other defendants in the Schimmel suit (Councilman Nutter was also an original defendant in the Schimmel suit).

Counterclaims by some defendants challenge the City's authority to enact campaign finance limits, and assert that the City's ability to regulate in the area is preempted by state law and violates the Constitution. One counterclaim challenges the ability of one putative candidate to remain in office.

Mr. Diaz explained that the City has an interest in enforcing requirements passed by City Council. Mr. Diaz expressed his concern over claims that the City is without the authority to regulate campaign contributions to candidates running for City offices. The Law Department has concluded that

City Council has the authority to regulate campaign contributions to candidates running for City offices as long as a narrow definition of "candidate" is used. However, the Schimmel lawsuit seeks to apply a broader definition of who qualifies as a "candidate."

The Solicitor cautioned the Committee of 70 prior to the filing of the suit about the potential for unintended consequences in the event that the litigation seeking broader applicability of the campaign donation limits resulted in the law being challenged. This has now occurred. The Law Department is now close to intervening in the litigation for the limited purpose of defending the City's ability to regulate in the area. Mr. Diaz added that the City has a core interest in enforcing the requirements established by City Council.

V. Executive Director's Report

A. **Legislative Update**

On May 16th, Philadelphia voters will be asked to approve a ballot question that would amend the City Charter to establish an independent Board of Ethics. The language of the proposed amendment to the City Charter is found in Resolution 040817, while the language of the ballot question is contained in Bill 040769.

If voters approve the Charter amendment next Tuesday, the law will become effective upon certification of the election results by the City Commissioners. Once the law becomes effective, all appointments to the Board must be made within 90 days. The Mayor makes the appointments to the five-member Board with the advice and consent of City Council. The new Ethics Board must hold their first meeting within 30 days after the appointments are confirmed.

B. Ethics Training

The Training Consortium is scheduled to meet on May 21st. Mr. Creamer said that he has been asked to speak about how the Citywide Ethics Training Program will be affected by the recent ethics legislation, subject to voter approval of the ballot question on May 16th.

The Citywide Ethics Training Program was launched on September 9, 2005. Mr. Creamer reported that 234 trainers have been trained in eight "Train the Trainers" sessions and that all City departments have submitted training schedules for their departments.

As of April 7, 2006, Mr. Creamer said that these 234 trainers have provided ethics training to 12,819 City employees. The following chart provides a breakdown of the Ethics Training Program by department:

Department	Number of Trainers	Employees Trained
Aviation	4	662 (out of 750)
Board of Pensions	2	54
City Planning Commission	1	52 (out of 56)
Finance	2	
Fire	7	2,015
Library	2	
Health	35	953
Human Relations Committee	2	30 (out of 35)
DHS	73	1,408
Law		221(CLE (7/27/05))
L & I	2	(Begins on May 4th)
OESS	3	168
Fleet Management	4	297 (out of 322)
MOLR	1	7 (100%)
Personnel	10	508 (Citywide training plus 74 in Personnel)
Police	17	2,569
Prisons	44	2,190
Property	3	106
Revenue	2	
Streets	7	600 (June 4th completion target)
Water	6	1200 (out of 2003)

C. Ethics Opinion Archive

Mr. Creamer told the Board that the Ethics Opinions from 1985 – 1987 have been converted into PDF files and are being loaded onto the Ethics Board web site by MOIS. An index to the PDF files with hyperlinks to the files will appear under the "Advisory Opinions and Publications" page. Ethics Opinions from subsequent years will be converted to PDF files and added to the Ethics Opinion Archive in the near future.

Mr. Creamer said that the next logical step with the archive would be to have the Opinions bound and printed. That project would include:

2. Assembling the Opinions
3. Assigning Opinion Numbers
4. Designing a Cover Page
5. Arranging for the Printing
6. Editing the Opinions to correct typos and to ensure uniformity
7. Consider whether to footnote new legislation; court rulings and other Opinions
8. Choose a format for the index and table of contents
9. Draft index entries for each Opinion

While an intern could complete many of these tasks, legal training will be necessary for others.

D. Space Planning for the New Ethics Board

On short notice, Mr. Creamer's office was moved on May 3rd from the 10th floor to the 14th floor of the Municipal Services Building. However, the office that he is currently in will only be available for up to 90 days. Mr. Creamer added that the need to relocate the Ethics Board's office over the next several months creates the opportunity to define the space needs of the new Ethics Board and search for suitable space.

Mr. Creamer is working with Property Commissioner Joan Schlotterbeck to locate potential space opportunities for the new Ethics Board over the next few months. Mr. Creamer told her that we would need space to conduct ethics training; a public Board meeting space; a small library/computer training room; and at least several offices initially.

On May 8th, Mr. Creamer was shown space that the City leases on the second floor of the Packard Building, located at 15th & Chestnut Streets. The entire floor is available, but it is unfinished. Mr. Creamer has been told that the Capital Program Office would work with us to design the office space and that the landlord would be responsible for the construction. CPO renovated the third floor of the Packard Building approximately six months ago for PCDC, and I had an opportunity to tour that space to get a better sense of what might be possible.

Over the next two months, Mr. Creamer said that he would like to develop several office space options for the new Ethics Board and get input from the Board on those options. Mr. McElhatton suggested talking to other ethics boards about their space needs.

E. Benchmarking Philadelphia's Ethics Program

Looking beyond what will hopefully be a resounding approval of next Tuesday's ballot question, Mr. Creamer told the Board that he thought it would be useful to compare Philadelphia's ethics program to other municipal ethics programs around the country. The information on the following chart was drawn from COGEL's 2005 Blue Book Update; the New York City Conflict of Interest Board's 2005 Annual Report; the Chicago Board of Ethics' 2004-2005 Annual Report; and from conversations with the Executive Directors of the Ethics programs in New York City, Los Angeles and Chicago.

City	**Budget**	**Staff**
Los Angeles	$2.3 million	27
New York City	$1.5 million	19
San Francisco	$1.4 million	13
Philadelphia (NEW)	*$1 million*	*TBD*
Chicago	$604,000	9
Seattle	$450,000	6
San Diego	$428,000	5.5
Philadelphia (NOW)	*$332,000*	*1*
Atlanta	$237,000	2
Oakland	$220,000	2

Honolulu	$158,000	2.5
Denver	$86,700	1
Jacksonville	$60,000	3
Tampa	Included in H.R.	5
Detroit	Not Indicated	Not Indicated
Buffalo	Not Indicated	Not Indicated

While Philadelphia's current budget places us just above Atlanta, Mr. Creamer pointed out that our actual spending in FY06 would place us just above Denver.

Mr. Creamer said that budget constraints appear to be a significant challenge for ethics programs around the country. If voters approve the ballot question next week, Philadelphia may have the first ethics program in the country with a guaranteed budget. Yet, without a protected budget, ethics programs struggle for independence from their funding sources.

In New York, Mr. Creamer said that budget cuts have resulted in a 19% reduction in staff since 2002. San Francisco and Chicago also report budget constraints and staffing shortages, while Denver reports a $10,000 reduction in their budget since 2003. Denver's budget is now $86,700.

In terms of ethics training, Mr. Creamer told the Board that most municipal ethics programs seem to offer a certain level of training. In New York City, 11,858 City employees received live ethics training in 2005. Although the COIB is required to offer ethics training, City officials and employees are not required to receive the training.

In Chicago, "senior executive level employees" are required to receive quadrennial ethics training. This amounts to approximately 10% of Chicago's 39,500 employees. Last year, Chicago passed a law requiring all City employees to receive annual ethics training, beginning in 2006. To comply with the new ethics training requirement, the Chicago Board of Ethics has prepared an online ethics training program that will be available on the City's web site. Departments will be responsible for scheduling the training for their employees.

Chicago's online training program was developed by the Board of Ethics, the City's IT department, which developed the application, and a local

vendor, who designed the screens. The program consists of five chapters, with questions at the end of each chapter.

Denver reports that it provided ethics training for 99% of its 10,000 employees over a two-year period from 2003 to 2004. The Denver Board also reports that it concentrated on training new employees in 2005.

Mr. Creamer also said that the San Francisco Ethics Commission reports that it provides one-on-one training to individuals, as well as training workshops for groups.

VI. New Business

There was no new business.

VII. Next Meeting

The next Ethics Board meeting will be held on Wednesday, June 14, 2006 at 5:00 PM in conference room "B" on the 16th floor of the Municipal Services Building. [**Note:** The next meeting date was subsequently changed to: **Tuesday, June 20, 2006 at 3:00 PM** in conference room "B" on the 16th floor of the Municipal Services Building.]