

**Philadelphia Board of Ethics**  
**Meeting Minutes**  
September 21, 2011  
Board of Ethics  
Packard Building  
1441 Sansom Street, 2<sup>nd</sup> Floor  
1:00 pm

**DRAFT**

**Present:**

Board

Richard Glazer, Esq., Chair  
Michael Reed, Esq., Vice Chair  
Judge Phyllis Beck (Ret.)  
William H. Brown, III, Esq.  
Sanjuanita González, Esq.

Staff

J. Shane Creamer, Jr., Esq.  
Nedda Massar, Esq.  
Evan Meyer, Esq.  
Michael Cooke, Esq.  
Maya Nayak, Esq.  
Tina Formica

**I. Call to Order**

Chair Glazer recognized that a quorum was present and called the meeting to order at 1:09 pm.

**II. Approval of Minutes**

By a 4-0 vote, the Board approved the meeting minutes, as printed and distributed, for the public meeting that was held on July 20, 2011.

**III. Executive Director's Report**

Mr. Creamer summarized his Executive Director's Report, but requested that the full report should be included in the minutes, as follows:

## **A. Litigation Update**

### **i. McCaffery v. Creamer, et al.**

During the July 20<sup>th</sup> Board meeting, I reported that renewed Preliminary Objections to Mr. McCaffery's Complaint were filed on July 15<sup>th</sup> in the Court of Common Pleas on behalf of the Board by our attorneys at the Law Department and Dechert. Earlier this year, the case was remanded to the Court of Common Pleas after an appeal to the Commonwealth Court.

In our Preliminary Objections, we argued that Mr. McCaffery's Complaint should be dismissed because the Board and I have immunity under several doctrines (high public official immunity; quasi-judicial or prosecutorial immunity; and immunity under the Pennsylvania political subdivision tort claims act). Notwithstanding the immunity defenses, we also argued that the Complaint should be dismissed because there is insufficient specificity in the pleading. Finally, we argued that the Complaint should be dismissed because each count is legally insufficient.

On July 20<sup>th</sup>, Mr. McCaffery filed a Motion to Compel Answers to Discovery that was served in January 2010, before the Complaint was dismissed by Judge Glazer. We opposed the Motion to Compel due to the pending Preliminary Objections, but on August 3<sup>rd</sup>, Judge Allen granted Mr. McCaffery's Motion and ordered us to respond to the requests in 60 days, which is October 3<sup>rd</sup>.

Then, on August 8<sup>th</sup>, Judge Glazer issued an Order denying our Preliminary Objections and ordering us to file an Answer to the Complaint. In a footnote to the Order, Judge Glazer wrote: "[i]t is very clear by the Memorandum Opinion dated March 16, 2011 that the Commonwealth Court has foreclosed resolution of this matter by preliminary objection."

A case management conference was subsequently held on August 18<sup>th</sup>, where the following schedule was set for the case:

- 6/4/12: discovery closes
- 7/2/12: plaintiff's expert reports are due
- 8/6/12: dispositive motions and defendants' expert reports are due
- 9/12: settlement conference (TBD)
- 12/12: trial-ready date

On August 29<sup>th</sup>, we filed an Answer with New Matter. On September 2<sup>nd</sup>, we served written discovery on Mr. McCaffery. His responses are due on October 3<sup>rd</sup>. Then, on September 8<sup>th</sup>, Mr. McCaffery's attorney noticed my deposition for October 3<sup>rd</sup>. Finally, on September 13<sup>th</sup>, Mr. McCaffery filed an Answer to our New Matter.

Needless to say, staff members and I have spent a significant amount of time in August and September working with our attorneys to defend Mr. McCaffery's lawsuit. Now that we are in the midst of discovery, we anticipate that more staff time will be spent on this lawsuit.

**ii. Lodge No. 5 of the Fraternal Order of Police, et al. v. City of Philadelphia, et al.**

On August 3<sup>rd</sup>, Judge Sanchez held a scheduling conference in the FOP case. On August 4<sup>th</sup>, Judge Sanchez issued an order setting a discovery deadline of December 12, 2011. Dispositive motions are due on January 30, 2012. Bob Aversa of the Law Department is representing all of the City defendants. Bob reports that at the scheduling conference, Judge Sanchez seemed very interested in the legal issues raised by the case. We are currently working with Bob to respond to discovery requests.

**iii. Cozen O'Connor v. Philadelphia Board of Ethics**

As I reported at the July 20<sup>th</sup> Board meeting, Renewed Preliminary Objections to Cozen O'Connor's Complaint were filed in the Court of Common Pleas on July 14<sup>th</sup> on behalf of the Board by our attorneys at the Law Department and Dechert. The case was remanded to the Court of Common Pleas after appeals to the Commonwealth Court and Pennsylvania Supreme Court.

In our renewed Preliminary Objections, we argue that Cozen's request for a declaratory judgment on the question of whether or not the City's contribution limits apply to post-election efforts to retire campaign debt was rendered moot by the 2010 amendment to the City's campaign finance law and by subsequently amended Regulation No. 1. Last year, while the case was on appeal, City Council amended the law with an express application of the limits to post-election efforts to retire campaign debt.

Previously, in 2007, the Board issued an Advisory Opinion to Cozen's former client, the Friends of Bob Brady, in which the Board stated that it interpreted Section 20-1002 "to prohibit contributions that exceed the limits of Section 20-1002 that are received after an election to retire campaign debt incurred for use in advocating or influencing the election of the candidate." Dissatisfied with the Ethics Board's Advisory Opinion, Cozen – as an alleged party-in-interest – filed a Complaint in this Court on or about March 3, 2008, seeking a declaratory judgment that post-election funds contributed to Congressman Brady's failed campaign are not "contributions" as such term is found at Philadelphia Code §20-1001(14).

The Board's Renewed Preliminary Objections also argue that there is no case or controversy because advisory opinions cannot be challenged in Court and that even if the Advisory Opinion is deemed to be a "final adjudication" by the Board, that Cozen's Court challenge should be dismissed because it wasn't filed within 30 days of the Opinion, as required by law.

On July 29<sup>th</sup>, Cozen filed Preliminary Objections to Strike Defendant's Preliminary Objections, asserting that mootness cannot be raised by preliminary objection and that the trial court rejected our alternative preliminary objections when it did not rule on them. Cozen filed an Answer to our Preliminary Objections on August 4<sup>th</sup> and we filed a response to Cozen's Preliminary Objections to Strike Defendant's Preliminary Objections on August 18<sup>th</sup>. In our response, we argue that mootness based on a change in the law, as has occurred with Cozen's

Complaint, can be raised by preliminary objection, while mootness based on a change in facts cannot be raised by preliminary objection. Both sets of Preliminary Objections have been assigned to Judge Panepinto.

Meanwhile, a case management conference was held on August 3<sup>rd</sup>, where the following schedule was set:

TBD:	Ruling on preliminary objections (the “Order Date”)
30 days from	
Order Date:	The parties exchange written discovery requests
90 days from	
Order Date:	Deadline to serve responses to written discovery and notice depositions
150 days from	
Order Date:	Deadline to complete depositions of fact witnesses and identify any expert witnesses
180 days from	
Order Date:	Deadline to serve expert reports
210 days from	
Order Date:	Deadline to serve rebuttal expert reports
240 days from	
Order Date:	Deadline to complete depositions of expert witnesses, if any
270 days from	
Order Date:	Deadline to serve motions for summary judgment and motions to exclude the testimony of expert witnesses
Trial Ready	
Date:	TBD, following court’s order(s) on summary judgment

We were advised at the case management conference that the case has been assigned to Judge Abramson, but that assignment is not yet reflected in the Docket.

Cozen filed its Complaint against the Board just over three years ago, making it the longest running challenge to the City’s contribution limits since the law took effect seven years ago. The firm has argued alternatively that the contribution limit rule impairs the Friends of Bob Brady’s ability to raise money to retire the firm’s debt or that the firm should be permitted to make a \$448,000 in-kind contribution to Congressman Brady’s mayoral campaign by forgiving the debt at one time, notwithstanding the \$10,000 contribution limit. Essentially, the firm argues that the City’s rules should not apply to its fees or to its former client. Beyond the City’s law, the firm, which is a professional corporation, has not explained how it could forgive the debt without violating the ban on corporate contributions under section 3253 of the State Election Code.

## **B. Lobbying Update**

As you may recall, the Board adopted a Resolution at its special meeting on July 7<sup>th</sup> to explain that additional time was necessary to complete the complex process of drafting and adopting new Regulation No. 9 on lobbying. The resolution informed the public that there would be no enforcement of the registration or expense reporting requirements of the lobbying law until at least 30 days after Regulation No. 9 on Lobbying becomes effective. The resolution also reiterated the substance of the Board's earlier resolution, adopted on June 15<sup>th</sup>, that it is not a violation of the lobbying law to fail to register as a lobbyist, lobbying firm or principal if the mandatory lobbying electronic filing system, the Philadelphia Lobbying Information System, is not yet available.

Between the Board's July 20<sup>th</sup> meeting and now, several of us have worked almost non-stop on Regulation 9 and related issues. We reviewed the testimony from the June 15<sup>th</sup> public hearing and the many written comments received and conducted meetings with stakeholders to discuss solutions to the issues raised in the testimony and comments. We revised the regulation to address the concerns and prepared the hearing report that we will discuss today.

At the same time, we continue to work on a daily basis with the Division of Technology and its vendor on the lobbying electronic filing software. We have been "smoke testing" the registration portion of the software for lobbyists, firms and principals and are still working on significant technical and design issues. Our Board staff will be responsible for administration of the lobbying software, and we must therefore test not only the end-user filing process for lobbyists, firms and principals, but also the many different operations that are part of administration. The next step is to conduct "user acceptance testing" which is even more detailed and rigorous. We believe that we can have the online registration software ready at some time in October.

After the registration software has been accepted, we must then move on to the expense report software. We must also train other members of our staff to provide "help desk" support for filers and design internal office processes to collect registration fees and to receive and verify the electronic reports. In order to complete these lobbying-related tasks, staff has had to delay several other important initiatives, especially in the area of ethics training. I'll discuss those in a few minutes.

## **C. Legislative Update**

Bill No. 110556 (copy attached) was introduced on September 8<sup>th</sup> to amend Chapter 20-1200, the lobbying chapter, of the Philadelphia Code. It has been referred to the Committee on Law and Government and a hearing has been scheduled before that Committee on September 28<sup>th</sup>. We will discuss the proposed amendments in the bill later in this meeting as part of our review of the Regulation No. 9 Hearing Report.

#### **D. Campaign Finance**

We believe that it is important to continue campaign finance training between now and the November general election and will therefore offer three sessions jointly with the City Commissioners. Each session will cover the requirements for candidates and political committees under the Pennsylvania Election Code and Philadelphia's Campaign Finance Law. Sessions will be held on:

- September 27, 2011 @ 1:00pm at the Board of Ethics
- October 13, 2011 @ 5:30PM at County Board of Election, Riverview Place, 520 N. Delaware Ave, 6th Floor
- October 18, 2011 @ 10:30AM at the Board of Ethics

The registration form will be available on our website and can be submitted by email or fax. Interested persons may also call our office to register.

#### **E. Ethics Training**

We know that our heavy workload has had a measurable impact on our ability to offer ethics training sessions. In the past few years, beginning each September, we have announced an ethics training calendar with several classes each month for City officials and employees and board and commission members. We cannot offer that kind of schedule this year and will have to delay ethics training while we concentrate in the fall on campaign finance training and lobbying.

Further, we have several tasks to complete before we resume in-person ethics training sessions, including revising our ethics training Powerpoint to include new information based on recently-adopted Board Regulation No. 8 on political activity. When we resume ethics training sessions, we will identify, contact and schedule sessions for new City employees, officials and board and commission members who have not had initial ethics training.

In another training-related matter, our progress toward online ethics training has also been affected and delayed by our workload. While DOT has apparently resolved the technical problem with receiving training confirmation emails, we need to find the time to design online training content and to test the entire project.

#### **F. Annual Report**

Ms. Massar informed the Board that Section 3-806(k) of the Philadelphia Charter requires the Board to submit an annual fiscal report to the Mayor, City Council, the Chief Clerk of City Council, and the Department of Records.

The Annual Report shows how the Board spent almost \$680,000 and reviewed the activity of that occurred in training, regulations, preparation for the 2011 Election cycle, implementation of the new Lobbying laws, advice, financial disclosure and enforcement.

A motion was made to approve the Fiscal Report and it was approved with a 4-0 vote. (Mr. Reed was not in attendance.)

Chair Glazer said that it is a troublesome aspect not to be able to fulfill ethics training. City Council at times said that training and education is the way to go.

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

1. Formal Opinions. Mr. Meyer reported that there were no Formal Opinions since the July report.

2. Advices of Counsel. Mr. Meyer reported that there were four Advices of Counsel since the July report.

a. **Nonpublic Advice of Counsel GC-2011-506 (July 18, 2011).** A former City employee requested a nonpublic advisory opinion as to what effect the ethics laws have on her planned pursuit of independent consulting work. While working for the City, the requester managed contracts between the City and certain non-profits. In this role, the requester reviewed invoices and was able to approve them pending final approval by a superior. The requester also recommended the renewal of the contracts based on an independent review.

Based on the facts provided, the Advice of Counsel advised the requestor of the following:

(1) Under Code Section 20-607(c), the requester may not acquire a financial interest in any official decision that she made while working for the City for two years after her separation from City service, including working for the non-profits whose contracts she managed for the City, if she is to receive compensation from the revenue derived from such contracts.

(2) Under Code Section 20-603(1), the requester may never assist another person in any "transaction involving the City" as to a particular issue about which she exercised discretion while working for the City.

(3) The State Ethics Act likely applies to the requester. Therefore, the requester was advised not to represent anyone, including herself, before the governmental body with which she was associated (likely her former Department), including by personally contracting with it or having her name appear on documents submitted to that governmental body, for one year after her separation from City service.

(4) However, this Advice is not binding on the State Ethics Commission, which has authority to interpret the State Ethics Act.

(5) The requester has the option to seek a nonconfidential opinion from the Law Department. Such an opinion could protect the requester from any applicable penalty of the State Ethics Act, although a violation could still be found.

b. **Advice of Counsel GC-2011-507 (July 25, 2011).** Brian Abernathy, Chief of Staff to the Managing Director, requested a public advisory opinion as to the effect of the ethics laws on his administrative duties in the Managing Director's Office ("MDO"), given that his wife works for a company that has responded to a request for proposals ("RFP") issued by Philly311, which reports to the MDO.

Abernathy advised that he has direct management responsibility for the administrative functions of the MDO, including that he has the authority to approve professional services contracts. He further advised that Philly311, which reports to the MDO and whose budget is contained in the MDO's budget, has issued an RFP to which the Harrisburg office of the accounting firm Grant Thornton LLP has responded. Abernathy advised that his wife is a Senior Manager in Grant Thornton's audit practice in Philadelphia, and that she will not participate in this contract. Further, he advised that he did not participate in the development of the RFP, that he will not review the responses, and that he will not manage the contract.

Based on the facts provided, the Advice of Counsel advised Abernathy of the following:

(1) The Charter's prohibition on City employees benefitting from City contracts contained in Charter Section 10-102 does not restrict Abernathy.

(2) The Code's conflict of interest provisions, Code subsections 20-607(a) and 20-607(b), do not restrict Abernathy.

(3) However, the State Ethics Act's conflict of interest provision likely applies to Abernathy and restricts him because of his wife's employment by Grant Thornton. Consequently, Abernathy should not participate in any official action that causes Grant Thornton to receive a "private pecuniary benefit." This likely includes approving a contract between the City and Grant Thornton. Furthermore, given that his official duties will intersect the financial interest of Grant Thornton if he is in a position to approve its contract with the City, Abernathy should disclose this fact and disqualify himself from approving Grant Thornton's contract with the City, in the manner required by Code Section 20-608(1)(c).

(4) However, it was noted that this Advice is not binding on the State Ethics Commission, which has authority to interpret the State Ethics Act. Abernathy may wish to seek advice from the Commission.

c. **Nonpublic Advice of Counsel GC-2011-508 (September 8, 2011).** A City employee in a technical position in an operating department, who had prior service in a different department, requested nonpublic advice on post-employment restrictions. The employee advised that she was considering leaving City employment and applying for a position with a company that does

business within the City. The employee was provided with the standard post-employment advice.

d. **Advice of Counsel GC-2011-509 (August 24, 2011).** Divisional Deputy City Solicitor Robert Biron, an attorney in the City's Law Department, requested a public advisory opinion as to what post-employment restrictions might apply to a possible employment position with the Committee of Seventy and whether in such a position it would be necessary for him to register under the City's new Lobbying Code. Biron advised that his current job responsibilities are as follows:

- evaluate and advise on the application of federal, state and local laws and regulations to community and economic development projects and programs in Philadelphia
- prepare and review City contracts made through the City's Office of Housing and Community Development and the Commerce Department in the areas of community and economic development
- provide legal counsel to the City of Philadelphia Vacant Property Review Committee

Biron advised that he was being considered for the position of Deputy Policy Director at the Committee of Seventy with a start date of September 2011. The responsibilities of that position are:

- research and write materials concerning Pennsylvania, City of Philadelphia and regional policy issues
- monitor legislation in Harrisburg and Philadelphia City Council
- help manage the Voter Assistance Program, monitoring polling places and answering questions from voters
- interact with elected and appointed Pennsylvania and City of Philadelphia governmental officials to further the Committee of Seventy's mission of promoting effective and efficient government, including giving testimony before City Council.

Biron was advised with regard to the "one year rule" of the State Ethics Act. However, it was noted that the one year restriction applies only in a limited way to attorneys. Accordingly, he was advised that, so long as he would be practicing law, the State Ethics Act one-year post-employment restriction would not apply to him. To the extent he would not be engaged in the practice of law as Deputy Policy Director of the Committee of Seventy, he may not for one year after the date of leaving the employ of the City (that is, the date off the payroll) represent anyone, including the Committee of Seventy, before his former governmental body.

**Advices of Counsel GC-2011-506, 507, 508, and 509 are available on our website.**

3. Informal e-mail guidance. Mr. Meyer reported that through Thursday, September 15, 2011, there were five of these since the July report. *Note that in every such email we state the following: "This informal general guidance is not a ruling on your particular situation and does not provide you protection from an enforcement action." We add that if the requestor would like a definitive ruling that applies the Public Integrity Laws to his/her specific situation and that*

*protects against a possible enforcement action, then they should ask us for an advisory opinion, providing, in writing, full and specific facts on which the opinion is to rely, including their name and title, specific question, and whether they are requesting a public or nonpublic advisory.*

a. Received an inquiry from a City employee asking: "Is there a specified amount of time before for a retired City Employee can declare him or herself a candidate for elected office?" Advised that it was presumed that the request referred to Section 10-107(5) of the Home Rule Charter, which provides:

No officer or employee of the City, except elected officers running for re-election, shall be a candidate for nomination or election to any public office unless he shall have first resigned from his then office or employment.

We advised the requestor that, under this provision, so long as you are on the payroll as a City employee (including any period of "running out" vacation or sick time), you may not become a candidate for elected office. There is no "cooling off period," however. The day after you formally separate from City service, you may announce your candidacy for public office, without violating Section 10-107(5).

b. A City employee noted an upcoming convention of an organization of which he is a member and stated:

Typically at conventions, multiple vendors have booths with information and samples available to attendees. In addition some vendors host receptions for members that include food and or beverages.

We provided the employee with our standard gift advice, and suggested he consult with Chief Integrity Office Joan Markman regarding the Executive Order on gifts.

c. Received an inquiry from a City employee regarding a speaking engagement to talk about the employee's City work, in which the event organizer was paying travel expenses. As the event host had no connection with the City, advised that there were no gift or conflict issues and referred to Advice of Counsel GC-2010-501.

d. We received an inquiry from a citizen regarding whether a judge should recuse in a certain unspecified matter. Responded that it was unclear whether the citizen was seeking advice or making a complaint, but in any case advised that the Board of Ethics has no jurisdiction over judges. Referred the requestor to the Judicial Conduct Board.

e. Received an inquiry regarding outside employment providing training in a subject area regulated by the requestor's department. Provided a link to a public Advice of Counsel on our website that addressed similar questions, and advised that the requestor may request an Advice of Counsel addressed to his particular situation.

4. Update on Recent Amendment of Campaign Finance Regulation No. 1 Mr. Meyer explained that at the last Board meeting on July 20, 2011, the Board approved a report on the June 15th public hearing on amendments to campaign finance Regulation 1. After receiving the Law Department's approval of the hearing report, Staff filed the hearing report with the Records Department. The amended regulation became effective on August 12, 2011 and is posted on the Board's website.

#### **V. Presentation of Draft Hearing Report for Regulation No. 9, Lobbying**

Chair Glazer explained that the Board would next review the draft Hearing Report, prepared by staff, on Regulation No. 9, on Lobbying. He traced the history of Regulation No. 9 on Lobbying, which is designed to implement the City's new lobbying law signed on June 16, 2010. He explained that the Board approved a draft of Regulation No. 9 for public comment at its May 11, 2011 meeting and determined at that time to hold a public hearing concerning the regulation on June 15, 2011. Chair Glazer noted that the Law Department approved Proposed Regulation No. 9 as to form and the regulation was filed with the Records Department on May 17<sup>th</sup>. The Board then conducted extensive outreach announcing the June 15<sup>th</sup> hearing via email and letters, and the hearing was advertised as required.

Chair Glazer explained that the Regulation will most likely require further modification based on pending Bill 110556. Chair Glazer asked staff to review the Hearing Report. General Counsel Meyer and Deputy Director Massar reviewed the Regulation No. 9 Draft Hearing Report in detail. A copy of the Draft Hearing Report is attached to and incorporated in these Minutes.

General Counsel Meyer explained that after hearing testimony on June 15<sup>th</sup> and receiving written comments, Board staff met with stakeholders and worked over the summer to address issues raised at the hearing and in the comments. The Hearing Report describes in detail the modifications to Regulation No. 9 recommended by staff since the draft regulation was approved by the Board in May.

General Counsel Meyer reviewed Paragraphs 1 through 9 in the Regulation No. 9 Hearing Report, which included recommended modifications to the following Paragraphs in Regulation No. 9: 9.0, 9.1(D), 9.1(X), 9.2(B-C), 9.3, 9.5, 9.6, and 9.7.

#### **Mr. Reed arrived to the Board meeting.**

Deputy Director Massar reviewed Paragraphs 10 through 22 in the Regulation No. 9 Hearing Report, which included recommended modifications to the following Paragraphs in Regulation No. 9: 9.9(A), 9.9(E), 9.15, 9.16(B), 9.17, 9.17(C), 9.17(D), 9.18(A), 9.24, 9.26, 9.27, 9.28, and 9.30.

Ms. Gonzalez asked if the definition of immediate family could include life partner. Chair Glazer said he believed the Board does not have authority to make that change.

Judge Beck was concerned about the application of the registration fee to small non-profits. The Board concluded that it did not have the authority to eliminate the fee, but would consider submitting it as a legislative recommendation in the future.

By a vote of 5-0, the Board gave staff authority to testify at the hearing on Bill 110556 in providing additional language as it relates to 9.27(A)(11)

By a vote of 5-0, the Board approved the June 15, 2011 Hearing Report on Regulation No. 9, and directed staff to submit it for Law Department approval, with the following changes:

- Addition of page numbers to the Table of Contents.
- Addition of "Penalties" before "Training" in the Table of Contents for the title of Subparagraph H.
- Deletion in Paragraph 9.1(X), Example 2, of the word "proposed" in first line of "Result."
- Modification in Paragraph 9.27(A)(11) of "statement on expense report" to "statement or expense report."
- Modification in Paragraph 9.27(B)(1) from "any appropriate law enforcement agency" to read "any appropriate **agency for investigation or** law enforcement agency."
- Deletion on Page 3, 2nd paragraph, first line of "Amendments to."

## **VI. New Business**

General Counsel Meyer explained that staff recommends that the Board rescind the Public Communications Guidelines that were approved by the Board on July 22, 2009. In preparing for "in-house" administrative adjudications, it became apparent to staff that the Guidelines from July 2009 are inconsistent with Regulation No. 5, Confidentiality of Enforcement and Investigative Matters and Prohibited Disclosures, and current Board practice. Regulation No. 5 was promulgated and became effective in November 2009, after the Guidelines were approved, and was subsequently amended in December 2009 and again in October 2010.

Mr. Meyer asked for a Board vote to rescind the Guidelines so that there is no existing Board policy that contradicts the regulation and current Board practice.

Mr. Cooke noted that since the press policy has been in effect staff has followed it. The Press Policy is out of sync with Regulation No. 5.

By a vote of 5-0, the Board voted to rescind the July 2009 Public Communications Guidelines.

## **VII. Announcement of Executive Sessions**

Chair Glazer said that in order to consider confidential enforcement matters, the Board held one executive session directly prior to this public session and one executive session by email in early August.

## **VIII. Questions and Comments**

Ellen Mattleman Kaplan, Vice President and Policy Director of the Committee of 70, requested that the Board accept comments on Regulation No. 9 “one more time.” She noted that she had not seen the current version of the Regulation before today and that lobbying software is not yet available.

Director of Enforcement Michael Cooke noted that, as with other Board regulations, Regulation No. 9 will be made available after it has been approved by the Law Department.

Sophie Bryan, Chief of Staff to Councilman Bill Green, recognized that there had been significant cooperation between Board staff and Council staff that resulted in changes to Regulation No. 9 and many of the provisions in Bill 110556. Ms. Bryan said that Councilman Green is amenable to including a “sunset” provision as part of the “safe harbor” in Regulation No. 9. She noted further that the intent of the change to the definition of the term “agency” in Bill 110556 was to make even more lobbying activity subject to disclosure under the law.

The public session of the Board's meeting was adjourned so that the Board could meet in executive session to discuss enforcement matters and non-public opinions.