

## **BOARD OF ETHICS MEETING**

Tuesday, September 17, 2019

7:00 p.m.

Lorraine H. Morton Civic Center, 2100 Ridge Avenue, Room 2404

### **AGENDA**

**1. CALL TO ORDER / DECLARATION OF QUORUM**

**2. PUBLIC COMMENT**

**3. APPROVAL OF MEETING MINUTES**

August 20, 2019

**4. EXECUTIVE SESSION**

Jurisdictional Hearing for Complaint 19-BOE-0004

The Board will enter executive session pursuant to 5 ILCS 120/2(c)(4) and (15)

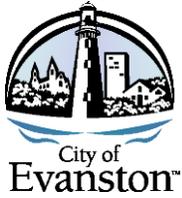
**5. OLD BUSINESS**

Update on revisions to the Code of Ethics and Board of Ethics Rules

### **ADJOURNMENT**

Next Regularly Scheduled Meeting:

October 15, 2019 at 7:00 p.m. in Room 2404



## **MEETING MINUTES**

### **BOARD OF ETHICS**

Tuesday, August 20, 2019

7:00 p.m.

Lorraine H. Morton Civic Center  
2100 Ridge Ave, Room 2404

Members Present: Jennifer Billingsley, Elizabeth Gustafson, Karena Bierman and LJ Ellul

Members Absent: Vincent Thomas

Staff Present: Hugh DuBose, Assistant City Attorney

Presiding Member: Jennifer Billingsley, Board Chair

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1. **Quorum:** Chair Billingsley declared that the Board had a quorum, with 4 of 5 members present and called the meeting to order.

2. **Public Comment:** The Board opened up the meeting for public comment. Mike Vasilco, Trisha Connolly, Darlene Cannon, Albert Gibbs, Clare Kelly, and Allie Brennen made public comments supporting Albert Gibbs and Trisha Connolly's complaint.

Mike Vasilco also asked the Board for the date of the next Ethics Subcommittee to the Rules Committee's meeting.

3. **Approval of April 16, 2019, Meeting Minutes:**

Chair Billingsley requested that the word "formatting" be removed and Member Ellul provided suggestions correcting scrivener errors in the minutes.

Member Bierman moved for the Board to adopt the amended minutes of April 16, 2019, with revisions incorporated. Member Gustafson seconded. The motion passes unanimously.

4. **New Business**

Complaint 19-BOE-004

Chair Billingsley indicated that the Board does not have to go into executive session and asked for discussion amongst the Board members.

Member Bierman stated the reason the Board goes into executive session to protect the Respondent from unfounded complaints if the Board determines it does not have jurisdiction to hear the complaint. The facts may be out in this case, but the Respondent still has a reasonable expectation that the complaint is confidential.

Staff Member DuBose advised that going into executive session is required under Evanston City Code Section 1-10-8(E).

Chair Billingsley asked the members to consider whether the Board can disregard Evanston City Code Section 1-10-8(E) and believes it has been disregarded before. Further, the Complaint has been disclosed and the alleged behavior took place in the public. She is inclined to proceed to hear the jurisdictional complain in open sessions. All of the facts are out there, so the Board can move forward.

Chair Billingsley stated the purpose of the jurisdictional hearing is to determine:

(1) Is or was the respondent a person subject to the Code of Ethics as defined herein at the time of the alleged ethical misconduct; and (2) is the ethical misconduct complained of covered by this Chapter.

Chair Billingsley noted Staff distributed the Confidential Report pursuant to the requirements of the City Code.

Chair Billingsley noted that Mr. Gibbs and Ms. Connolly requested that their complaints be treated as one complaint.

Chair Billingsley stated that Alderman Braithwaite is an Alderman and is covered by the code.

Member Gustafson says she watched the meeting and rewatched the Ald. Braithwaite's comments and found the situation to be confounding. She did not see a linear path from public comments to his response. She states she is reluctant to say what she is thinking. While she understands his comment, she does not see how it is a comment related to public comment.

Member Ellul states she watched the public comment and Ald. Braithwaite's comments. She feels Ald. Braithwaite's comments where not directed at a specific person who made a public comment. He was uttering his opinion to everyone. When a public official makes comments from the dais, they run the risk of offending someone. Member Ellul though Ald. Braithwaite's comments were inappropriate.

Chair Billingsley asks even if the comments were inappropriate, offensive, and uncivil, is that enough to trigger a code of ethics violation? She does not see without a hearing how she can make a finding. How the comments were received goes to whether there was intimidation, an abuse of authority, or impartiality.

Member Bierman says did it would be better to have discussion at hearing than to find no jurisdiction.

Member Ellul moved that the Board find it has jurisdiction over 19-BOE-004. Member Gustafson seconded the motion. The motion passes 3-0 with Member Bierman abstaining.

Chair Billingsley moved for a 5 minute recess. Member Bierman seconded the motion. The motion passes 4-0.

#### Financial Disclosures:

The Board reviewed all financial disclosures filed with the City and identified forms missing information and forms that should receive cautionary letters. The Board identified forms with potential conflicts and directed Staff to issue cautionary letters to those individuals.

#### Code of Ethics Re-Write:

Staff read email from Ald Wilson requesting comments the Board of Ethics provide comments on the draft Board of Ethics Rules to the Ethics Subcommittee of the Rules Committee. After receiving the Board of Ethics' input, the Ethics Subcommittee of the Rules Committee will schedule its next meeting.

The Board made discussed changes to the proposed Board of Ethics Rules.

Member Bierman made a motion to reiterate the Boards' concerns in a memo transmittal to the Ethics Subcommittee to Rules Committee regarding term limits modifications in the rules and the codes and question: (1) why the term limits are different from any other committees; (2) if the Ethics Subcommittee to the Rule Committee has considered the challenge of finding qualified candidates who are willing and able to serve on the Board of Ethics; (3) whether they considered the learning curve on serving on the board of ethics; and (4) whether they have considered how long a complaint takes matriculate through the Board's process and the effect of changing members each year will have on existing complaints. Member Ellul seconded and the motion with all members voting in favor.

The Board made discussed changes to the updated draft Code of Ethics.

Member Bierman made a motion to transmit in a memo transmittal to the Ethics Subcommittee to Rules Committee Board recommends the Board's recommendation to split the Code of Ethics and the Rules so that everything that deals with process and procedure should go into the Rules and everything that what is a violation of the ethics

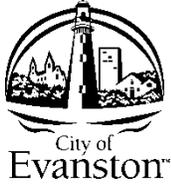
code goes in the Code of Ethics. Member Ellul seconded and the motion passed with all members voting in favor.

The Board requested their changes be incorporated into a memo to the Ethics Subcommittee to the Rules Committee.

6. **Adjournment:** Upon motion by Member Bierman and second by Chair Billingsley, the meeting was adjourned with all voting in favor.

Attachment:

Memo from the Board of Ethics to the Ethics Subcommittee of the Rules Committee, dated September 11, 2019.



# Memorandum

To: Ethics Subcommittee of the Rules Committee

From: Board of Ethics

Subject: Revisions to the Code of Ethics

Date: September 12, 2019

## Summary

The Board of Ethics (the “Board”) met on August 20, 2019 to review the Ethics Subcommittee to the Rules Committee’s (the “Subcommittee”) proposed changes to the Evanston Code of Ethics and proposed Rules for the Board of Ethics. The Board recommends the changes in this memo to the draft version of the Board of Ethics Rules (the “Rules”) and City Code of Ethics (the “Code”).

First, the Board recommends splitting the Code of Ethics and the Rules into two separate documents so that all provisions dealing with process and procedure can be found in the Rules and all provisions explaining what is a violation of the Code of Ethics is in the Code.

## Draft Board of Ethics Rules

- Remove Section I. A. “Intent”
- Update definitions in Section I. B. so that they are consistent with the definitions in the new Code.
- Remove Section I. C. Board Members – This section is duplicative of the Code
  - The Current Board of Ethics is concerned that the changes to the term limits length of Board of Ethics Members will negatively impact the Board of Ethics. The current Board of Ethics would requests that the Subcommittee to Rules Committee consider: (1) that term limits are different from any other committees; (2) the challenge of finding qualified candidates who are willing and able to serve on the Board of Ethics; (3) the learning curve on serving on the Board of Ethics; and (4) how long a complaint takes matriculate through the Board’s process and the effect of changing members each year will have on existing complaints.
  - The Board recommends increasing the number of members from five to nine.

- Add a section to the rules that explains to citizens how to file a complaint. The Board receives a number of questions from citizens on this process. It would be helpful if the Rules explained the process for filing a complaint.
- Identify which staff members will be responsible for providing administrative support for the Board Of Ethics.
- Section E: Clarify that any business that could be conducted at a regular meeting, can be conducted at a special meeting

#### Draft Code of Ethics

- Replace “chief investigative officer” with “Counsel for Board of Ethics”
- 1-10-5: replace “political activity” with “campaign or political activity”
- 1-10-13: Add section (I) granting the Board of Ethics the power to approve the Special Counsel’s rules and regulations
- 1-10-14: Add a requirement that the Special Counsel must be a licensed member of the Illinois Bar, in good standing, with demonstrable appropriate experience
- 1-10-14(C): Add a requirement that the Special Counsel’s rules and regulations are approved by the Board of Ethics
- 1-10-16: Clarify what it means for the Special Counsel to “compile” evidence.
  - Will the special counsel be able to review City files, interview witnesses, or collect any other data?
- 1-10-16(C): Add Vice Chair of the Board of Ethics to the advisory panel to avoid a tie.
- 1-10-16(G): Add “obtain information as needed” to the last sentence of the last paragraph.
- 1-10-16(H): Make the last sentence its own section 1-10-16(I)
- 1-10-17-5: Change reference from “Hearing Officer” to “Special Counsel
- 1-10-17-5: Change “Ethics Board Case in Chief” to “Complaint Case in Chief.” Also, under the current code, the Complainant presents their case. The current code does not speak to who presents the Complainants case. Would it still be the Complainant? The Code/Rules should specify who is presenting the case.
- 1-10-17-8: Change the authority to grant continuances from the Hearing Officer to the Board of Ethics Chair.