BOARD OF ETHICS MEETING
Tuesday, November 19, 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
   October 15, 2019

4. NEW BUSINESS
   a. Findings and Order: 19-BOE-004
   b. Status Update from City Staff on new Code of Ethics and discussion.

5. Executive Session
   Jurisdictional hearing for ethics complaint 19-BOE-005

ADJOURNMENT
Next Regularly Scheduled Meeting:
December 17, 2019 at 7:00 p.m. in Room 2404
MEETING MINUTES
BOARD OF ETHICS
Tuesday, October 15, 2019
7:00 p.m.
Lorraine H. Morton Civic Center
2100 Ridge Ave, Room 2404

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

Members Absent: Vincent Thomas

Staff Present: Judge Russell Hartigan, Contract Counsel for the Board of Ethics

Presiding Member: Jennifer Billingsley, Board Chair

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**: Public comment was heard, with 3 minutes allotted to each speaker. Comments were provided in support of and against a finding of an ethics violation by Alderman Braithwaite, which was the subject of the meeting. Mayor Steve Hagerty spoke against a finding of a violation and specified that he was speaking as a personal citizen not as the mayor.

3. **Approval of Meeting Minutes**:

   September 17, 2019 Meeting Minutes

   The Board considered the minutes for the September meeting. No member had any comments. Chair Billingsley moved to approve the minutes, the motion was seconded and all voted in favor to adopt the minutes.

4. **Recess**

   Chair Billingsley made a motion to take a 5-minute break, Member Bierman seconded, all voted in favor. A break was taken.

   A motion was made to restart the meeting, seconded by Member Bierman, all voted in favor. The meeting resumed.

5. **Hearing for Complaint 19-BOE-0004**.
Chair Billingsley moved to deny the motion to dismiss because it lacked substantive legal reasoning or fact. Bierman seconded and all voted in favor. The motion to dismiss was denied.

Chair Billingsley described the hearing process, which allowed each side 15 minutes to provide an argument for their position, additional time to present witnesses or other evidence, and final time to close their case.

Trisha Connolly presented the initial statement of the complaint against Alderman Braithwaite related to the comments he made in an official capacity in a meeting of the full Council, wherein he provided his personal opinion on “white people” calling him out as “racist” and suggesting that they keep their thoughts to themselves. Albert Gibbs added additional commentary to their argument.

Shawn Jones presented the defendant’s position, re-read portions of the statement by the Alderman, and criticized the process of the complaint being filed and the need for an ethics hearing at all. He concluded with comments on bullying in response to materials he presented in his motion to dismiss. Juneitha Shambee dissected the elements of the complaint and the lack of evidence to substantiate a finding that a violation had occurred.

Chair Billingsley called for additional evidence or testimony from the complainant, who presented Ray Friedman. The witness was sworn in by Judge Harrigan. Friedman provided testimony about his experience with Alderman Braithwaite telling him to “shut up” when asked whether he had just said that white people shouldn’t speak out against racist actions by elected officials. Friedman testified that he appeared at the next Council meeting to share what Alderman Braithwaite had said to him.

Shambee also called Friedman to the stand and cross-examined him regarding the statement. After numerous questions, Chair Billingsley asked counsel to conclude as the line of questioning was leading to information too removed from the issues at hand.

Braithwaite was sworn in by Judge Harrigan then provided his personal view on the situation, directing his comments to the audience gathered to support him. He apologized for them having to come out to support him. He indicated that his fate was in the all-white “jury” of the ethics board members.

Connelly was provided time to summarize their case. Gibbs declined the opportunity to add a closing statement. Jones re-read portions of Braithwaite’s statement at issue. Shambee made additional comments and reiterated that the Braithwaite had been speaking for himself.

Chair Billingsley ended the hearing portion of the meeting and commenced deliberation of the complaint and evidence with the Board of Ethics members in open session.
Member Bierman requested that the Board review the allegations out of order and take up the claim of intimidation first. Discussion of the evidence or lack of evidence illustrating the elements of intimidation followed. Judge Harrigan provided his view on the burden of proof for a criminal claim. Chair Billingsley moved that there is no finding of criminal intimidation, Member Gustafson seconded, all voted in favor.

The Board returned to the claim of Abuse of Power and a discussion of the elements required to demonstrate a violation of the Code of Ethics followed. After a discussion, including the requirement of a transaction, and benefit, followed. Chair Billingsley moved that there was no finding of Abuse of Power, Member Bierman seconded, all voted in favor.

The final claim of lack of impartiality was discussed. Each member of the committee shared their views on the facts, the interpretation, the evidence provided, including the comments at the hearing by Braithwaite, as well as the evidence required to meet the burden of impartiality. The Chair moved for a finding that the complaint and evidence did not rise to the level needed to find a violation of Impartiality. Member Bierman seconded. Chair Billingsley, Member Bierman and Member Gustafson voted in favor, Member. Ellul was opposed. The motion carried.

6. **Adjournment**: Upon motion by Chair Billingsley and second by Member Bierman, the meeting was adjourned with all voting in favor.
BOARD OF ETHICS REPORT OF FINDINGS & ORDER

File Number: 19-BOE-004

Complainant: Trisha Connolly and Albert Gibbs

Respondents: Alderman Peter Braithwaite

This matter coming before the City of Evanston Board of Ethics, and the parties fully advised on the premises, the following findings are entered as a matter of Record, and it is HEREBY ORDERED:

PROCEDURAL BACKGROUND

1. On August 11, 2019, Trisha Connolly and Albert Gibbs (the “Complainants”) filed identical Board of Ethics complaints against Alderman Peter Braithwaite. On August 12, 2019, the Complainants contacted the Board of Ethics and requested that their complaints be treated as a joint complaint (the “Complaint”).

2. The Board of Ethics held three meetings, posted notice, and provided a packet on the City’s website: (i) on August 20, 2019, the Board held an initial jurisdictional hearing; (ii) on September 17, 2019, held a second jurisdictional hearing to consider jurisdiction; and (iii) on October 15, 2019, held a hearing to consider the allegations at issue.

3. Upon conclusion of the hearing on October 15, 2019, the Board of Ethics deliberated on the pleadings and testimony provided prior to issuing this final Order.

ALLEGATION

4. The Complaint alleges Ald. Braithwaite (1) abused his power of office in violation of City Code Section 1-10-4(C)(3)(b)(2); (2) failed to act in an impartial manner in violation of City Code Section 1-10-4(C)(1); and (3) intimidated a citizen in violation of 729 ILCS 5-12-6.

FINDINGS & ORDER

5. During the consideration of the issues raised, the Board evaluated the Complaint and all statements on the Record on October 15, 2019.

6. The Board determined that Alderman Braithwaite did not intimidate a citizen in violation of 729 ILCS 5-12-6 (4-0 vote).

7. The Board determined that Alderman Braithwaite did not abuse his power of office in violation of City Code Section 1-10-4(C)(3)(b)(2) (4-0 vote).
8. The Board determined that Alderman Braithwaite did not act in an impartial manner in violation of City Code Section 1-10-4(C)(1) (3-1 vote).

9. This is an advisory opinion pursuant to City Code 1-10-2(C).

Date: ______________, 2019

 Entered: __________________________________________

Jennifer Billingsley, Chairman, Board of Ethics