

**DISTRICT OF COLUMBIA
BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY**

**MINUTES OF REGULAR MEETING
OCTOBER 19, 2017**

The District of Columbia Board of Ethics and Government Accountability held its Regular Monthly Meeting on Thursday, October 19, 2017, at 11:00 a.m. at One Judiciary Square, 441 Fourth Street, N.W., Room 540 South, Washington, D.C. 20001. The Board’s Chairperson Tameka Collier was present, as well as Board Members Norma Hutcheson, Carol Schwartz and Shomari Wade. Also present on the dais was John (Jack) Grimaldi, the Board’s Senior Counsel.

The full discussion and the meeting is on audio file, and may be found at <http://bega.dc.gov/event/october-19-2017-bega-monthly-meeting>

AGENDA

- I. Call to Order
--Chairman Collier called the meeting to order.

- II. Ascertainment of Quorum
--The Chairman established that a quorum was present.

- III. Adoption of the Agenda
--**The Board voted unanimously** to adopt the agenda.

- IV. Report by the Director of Open Government
 - A. OOG Outreach/Visiting Delegation – China, Anhui Province
 - B. Budget
 - C. OOG v. Yates, No. 2016 CA 007337 B
 - D. OMA and FOIA Advice/Advisory Opinions
 - E. Trainings

- V. Report by the Director of Government Ethics
 - a. Update on Status of Office of Government Ethics (OGE) Operations – Recap of previous month’s activities (statistics)

	Current	Last month	July 2017
Investigations Opened:	1	4	4
Investigations Closed:	1	11	3
Investigations Currently Open:	14	16	17

Investigations Stayed (Inactive): 16 17 24

Stayed (Inactive) Cases		
Nature of Stay	Number	Date Rec
Court (fugitive)	1	Jan. 2016
OEA (pending motions)	1	
OIG	13	Jan. 2016
OAG (pending civil False Claims Act complaint)	1	Sept. 2016
Total Stayed Cases	16	

b. Publication and Reporting Obligations

We have no outstanding publication or reporting obligations. As required by the Ethics Act, we published the Quarterly Complaint Report on our website. We are in the process of reviewing and updating our performance measures for the previous fiscal year. We also fulfilled a FOIA request for “Copies of all complaints filed with office of board of ethics in 2017 (Date Range for Record Search: From 01/01/2017 to 09/04/2017).” That resulted in producing more than 180 records that had to be heavily redacted.

c. Trainings/Outreach –

i. Attended by staff –

None

ii. Conducted by staff –

Twenty five, which is 13 more than the 12 conducted last month. It must be noted that this measures trainings over a 6, rather than 4 week period. The 24 trainings include: three new employee orientations and MSS (FDS) trainings, one general Boards and Commission training, two regular Monthly Ethics Training, a training session at the Mayor’s Advisory Commission on Child Abuse and Neglect, two trainings at the Office of Administrative Hearings, two One Fund trainings, one each at the Office of Risk Management and Department of Housing and Community Development, and eight local Hatch Act trainings for EOM staff, and one at the Council.

iii. Ethics Day- Ethics Day- BEGA’s Ethics Day 2017 is scheduled to take place on following this meeting. We have secured participation from the Office of Partnerships and Grant Services, the Office of the Inspector General, Office of Campaign Finance, the D.C. Council’s Office of the General Counsel; and the D.C. Bar has agreed to co-sponsor and conduct a

Legal Ethics course for government attorneys. We will offer a total of nine ethics courses.

- iv. Ms. Ethics Videos – Included in the Ethics Day program will be the rollout of six new, short ethics videos. The covered topics include: misuse of title/position, widely attended gatherings, nepotism, Hatch Act, financial conflicts of interest, and outside employment. Each video will be 30-seconds long and each scene will feature an actor calling Ms. Ethics over the telephone for advice.

- v. This must be the season for foreign delegations to visit BEGA. On October 24, we will be hosting a delegation from Bhutan, and on November 1, a delegation from China – the Qingdao Municipal HR Bureau will be visiting. The Bhutan delegation was specifically interested in discussing BEGA’s efforts in investigating ethics laws violations by District government employees and public officials, providing binding ethics advice and conducting training on the DC Government’s Code of Conduct. The Chinese delegation wants to discuss how public servants are being trained and administered in the US, and what are the ethical codes that apply to government employees. They are willing to share how China is establishing a credit system to administer and monitor public servants.

d. Advisory Opinions/Advice –

Informal Advice: approximately 96, since the last meeting, up from 65 last month. Again, we are measuring a 6 week period against a 4 week period.

Formal Advice requests:

Since the last meeting, we received a request from a Council employee who does not work for a Councilmember for an opinion on the application of the Council’s postemployment rules to that employee.

e. Ethics Legislation/Comprehensive Code of Conduct

The run-up to the November 2 hearing on the CCC has been a mixed bag. We met with Councilmember Grosso, as well as members of Councilmember Cheh's staff, to discuss the bill, and have a meeting scheduled with Councilmember Gray’s staff. We have not yet scheduled a meeting with Councilmember Bonds. We also met with the Mayor’s General Counsel, but the Director of the Office of Policy and Legislative Affairs, who was invited to join us, but we have not yet met with her.

On a more positive note, Bob Spagnoletti and Thorn Pozen, a former Chief Ethics Officer for the District and long-time BEGA supporter, have agreed to present testimony at the hearing.

I'll turn it over to Mr. Grimaldi for any further comments he may have, and he can also update you on the status of our meeting with ANC Commissioners on the CCC as well as the quorum increase legislation.

f. Rulemaking

1. At the last meeting, the Board adopted amendments to its rules to ensure that our rules were consistent with the Council Financial Disclosure Amendment Act of 2016, effective April 7, 2017 (D.C. Law 21-240). That legislation requires the Chairman and each member of the Council to file a public financial disclosure statement semiannually on May 15 and November 15 of each year. The 30 day comment period has not yet expired, but the Councilmembers have been notified and are expected to file in compliance with the legislation they passed.
2. We are looking forward to discussing with the Board at its next meeting, Boards and Commissions that are currently exempt from the PFDS filing requirement that we believe should be required to file given their duties and responsibilities. The Director of the Mayor's Office of Talent and Appointments has asked for an opportunity to weigh in on this process and we have provided him with a copy of the list that we compiled.

g. Budget:

We have continued to hold monthly budget meetings. The next budget meeting will include a discussion on FY18.

h. Staffing –

We still have 2 new administrative positions to fill in October, as well as the Director vacancy. The vacancy announcement for a paralegal specialist position was posted yesterday, October 18, 2017.

i. Lobbyist/Financial Disclosure Matters

1. Public Financial Disclosure Statements

We are still working to get all non-compliant public financial disclosure statement filers to file their forms via our e-filing system. Since our last board meeting, one non-filer has filed her form. There are still 14 non-

filers. We have not received voluntary payment of the \$300 fine from any of the non-filers or the one late-filer. We are in the process of drafting garnishment memos to be submitted to OCFO in the fine amount of \$300 for each non-filer and the late-filer. The late-filer has submitted a fine waiver request which we oppose.

2. Confidential Financial Disclosure Statement Enforcement for the current year. (5/15/2017)

We are currently reviewing CFDS reports and following up with ethics officers regarding CFDS submissions and inquiring whether employees are still employed with the District.

3. Confidential Financial Disclosure Statement Enforcement (for last year)

Last month, you approved Notices of Violation for three employees who have been continually failed to comply with their CFDS obligations. We are happy to report that one of those employees has come into full compliance since he was served with the Notice of Violation. We are asking the Board to dismiss that NOV. Therefore, we will only be pursuing enforcement actions against two employees. We are attempting to serve one of the still non-compliant employees, A. Moon, with a hard copy of the NOV. We would like to set a hearing date for the action against the second employee, R. French. I am recommending that we summon Mssrs. French and Moon to appear at the next meeting to set hearing dates.

Lobbyists

1. We recently met with an OCTO representative regarding OCTO's updates to our lobbying e-filing system. Some of the upgrades we expect to see are changes to the lobbying registration system so that late-registrants are automatically fined and fines are automatically generated. According to OCTO, the updates to the e-filing system will be ready in November, approximately two months prior to the January filing season.
2. #1658-001 - Mr. Perkins requests a waiver of the \$60 fine that was imposed after he late-filed his July 2017 Lobbying Activity Report. This was the first year that he registered as a lobbyist and as he explained, he registered preemptively, but, ultimately, did not engage in lobbying. Given that he did not engage in lobbying activity or expend funds for lobbying, he was not required to register as a lobbyist or file the requisite lobbyist activity reports for 2017. As such, we do not oppose his waiver request. In addition, we note that Mr. Perkins filed the report to reflect that he did not engage in any lobbying activity.
The Board voted unanimously to approve the waiver.

j. Non-Confidential Investigations

- 1) *#1426-001: In re G. Price* – This appeal remains pending. The Office of the Attorney General is representing BEGA on the appeal. Mr. Price has requested several extensions of time to file his brief. The Court has yet to rule on his latest request. We will keep the Board apprised of developments in this case.
- 2) *#1031-007: In re K. Henderson*- This matter is a formal complaint, pursuant to D.C. Official Code § 1-1162.13 (a)(1), based on a Report of Investigation (ROI), received from the Inspector General containing a finding that former Chancellor Henderson violated DPM § 1800.3 (h), that requires employees to “act impartially and not give preferential treatment to any private organization or individual.” We have reached a negotiated disposition in the matter and are asking the Board to approve the disposition. **The Board unanimously approved the negotiated disposition.**

VI. Opportunity for Public Comment

- VII. The **Board voted unanimously** to deliberate in Executive Session (non-public) to Discuss Ongoing, Confidential Investigations pursuant to D.C. Official Code § 2-575(b), to deliberate on a decision in which the Ethics Board will exercise quasi-judicial functions pursuant to D.C. Official Code § 2-575(b)(13), and Personnel matters pursuant to D.C. Official Code § 2-575(b)(10).

VIII. Resumption of Public Meeting

- a. Discussion of any remaining public items

1. #1031-007: In re K. Henderson - **The Board unanimously approved the negotiated disposition.**

IX. Adjournment