DISTRICT OF COLUMBIA
BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY

MINUTES OF REGULAR MEETING
DECEMBER 21, 2017

The District of Columbia Board of Ethics and Government Accountability held its Regular Monthly Meeting on Thursday, December 21, 2017, at 10:00 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 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 https://www.open-dc.gov/meeting/bega-monthly-meeting-december-21-2017

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

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	Oct 2017
Investigations Opened:	0	1	1
Investigations Closed:	11	5	1
Investigations Currently Open:	9	12	14
Investigations Stayed (Inactive):	9	14	16

Stayed (Inactive) Cases		
Nature of Stay	Number	Date Rec
Court (fugitive)	1	Jan. 2016
OEA (pending motions)	1	Dec. 2016

OIG	4	Jan. 2016
OAG (pending civil False Claims Act complaint)	2	Sept. 2016
OIG/OAG	1	Sept. 2017
Total Stayed Cases	**9**	

b. Publication and Reporting Obligations

We have no outstanding publication or reporting obligations.

We have had several meetings on the status of the website since the last meeting and have made a number of tweaks to the website, to include updating our training presentations, adding descriptions to advisory opinions and linking to OOG for OGE's FOIA resources. We met with OCTO which added a FOIA/Open Government page to our website that is consistent with other dc.gov sites in the District government. We are proposing to redesign certain elements to highlight important material. We now know that this is an ongoing process that will only improve with input from the public and other stakeholders.

We have also been working with OCTO on the design, testing and implementation of our updated FDS and lobbyist filing systems. OCTO has informed us that they expect to conduct about a week of quality control testing on the new systems around January 15, during which time they will address and rectify any bugs uncovered during the QC testing. At that point, our staff will spend about a week performing "user acceptance testing" in OCTO's software test environment. If all goes well, OCTO indicates that the new systems should be ready to "go live" around the middle of February in time for the next FDS filing season.

c. Trainings/Outreach –

i. Attended by staff –

Attorney Advisor Janet Foster, General Counsel Flowers, Director Hughes and Attorney Advisor Johnnie Barton attended the COGEL Conference last month. The conference offered presentations on Ethics Investigations and Enforcement, as well as programs on emerging trends in FOIA law. One point that was noted by Chicago's Ethics agency was that sexual harassment enforcement and training was added to their jurisdiction and responsibilities. We bring to the Board's attention that the Sexual Harassment Policy, Guidance and Procedures Mayor's Order recently signed by Mayor Bowser contains a provision in section 5(k) that recognizes that some claims of sexual harassment "may also involve ethical violations, such as if an employee is giving gifts to an employee for sexual favors or to a potential reporter of sexual harassment, or if an employee is using government resources to copy and disseminate

inappropriate pictures." The order reinforces the responsibility of employees to report credible violations of this nature to BEGA.

ii. Conducted by staff –

Fourteen, which is double the seven conducted last month. It must be noted that this measures trainings over a six, rather than 2 week period, and follows our intensive Ethics Day training program. The 14 trainings include three new employee orientation and MSS (FDS) trainings, two general Boards and Commissions trainings, an annual training session at the DC Retirement Board, one at PERB, a DGS Hatch Act training, and a Lobbying Training Workshop.

We are continuing to develop a BEGA Roadshow, a presentation intended for the public. It is roughly 80 percent completed, and designed to let the public know what we do and how well we are doing those things, so it includes some of our performance statistics as well as noting several of our important public cases.

d. Advisory Opinions/Advice –

Informal Advice: approximately 71, since the last meeting, significantly up from 45 last month. Again, we are measuring a 6 week period against a 2 week period.

Formal Advice requests:

We have no pending requests for formal opinions.

e. Ethics Legislation/Comprehensive Code of Conduct

The proposed resolution to approve former Director Sobin as a new Board member was reported out of the Council's Judiciary Committee on Tuesday, December 19. It is anticipated that the Council will act on this PR at its January meeting.

f. Rulemaking

1. There have been no new developments, but there are 2 pending proposals. The 30 day public comment period ended on November 20 for the rulemaking that ensures that our rules are 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. No comments were received on the proposed rule, and all 13 Councilmembers have filed. Those financial disclosure statements are

available on our website. We are asking the Board to adopt the final rulemaking today.

The second proposal concerns the review of the list of boards and commissions whose members we believe should be required to file public financial statements, but are not currently required to do so. We briefly spoke with Steven Walker, Director of the Mayor's Office of Talent and Appointments, but want to have a formal meeting or receive his input before submitting the list to you. One issue is whether members of regulatory and licensing boards, such as the Board of Medicine or Board of Cosmetology, should be required to file. Under the previous Ethics Act they did. However, most now do not.

g. Budget:
BEGA's Budget Review Team meeting is scheduled for January 5. We have continued to hold monthly budget meetings.

h. Staffing –
We still have 2 new administrative positions to fill. Interviews were conducted for the paralegal specialist position and those applications are currently under review.

i. Lobbyist/Financial Disclosure Matters

1) Lobbyists

a. We are approaching peak lobbying season, with activity reports reflecting lobbying activity during the last six months of 2017 due by January 10, 2018 and re-registrations due January 16, 2018. Earlier this month we conducted an in-person training for lobbyists regarding the e-filing system and we have already begun sending reminder notices to registered lobbyists regarding the deadlines.

b. BEGA #1677-001-National Capitol Strategy Group Late Fee Waiver Request.
This is a lobbying waiver request submitted by a lobbyist who late-filed his July 2017 LAR by one day due to internet connectivity issues. Based on the Respondent's representations, OGE does not oppose this waiver request of the $10 fine and we recommend that the Board enter an order granting the waiver. The Board

2) Financial Disclosure Matters

a. 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, we discovered that some non-filers are separated from the

District. There are 7 non-filers. We have submitted garnishment memos to OCFO in the fine amount of $300 for each non-filer. Our next step is to reach out to the non-filers' supervisor or agency head.

b. Confidential Financial Disclosure Statements for Calendar year 2017
We are currently reviewing CFDS reports and following up with ethics officers. We will soon compile a list of CFDS non-filers and begin the enforcement process.

j. Non-Confidential Investigations

1. #1630-001, *In re*: A. Moon
If you recall, you approved a Notice of Violation for Mr. Moon at the September meeting. Mr. Moon filed both his 2016 and 2016 Confidential Financial Disclosure forms on November 6, 2017, making them 18 months and six months late, respectively. Though Mr. Moon filed his Confidential Financial Disclosure forms he filed them extremely late and has only been fined $300 thus far. On December 7, 2017 the Office of Government Ethics ("OGE") interviewed Mr. Moon and offered him a negotiated disposition in this matter. On December 19, 2017, Mr. Moon signed a negotiated disposition agreeing to pay a fine of $600. We are asking the Board to approve the negotiated disposition.

2. #1641-001, *In re*: R. French
At the September meeting, you also approved a Notice of Violation for Mr. French. Like Mr. Moon, Mr. French filed both his 2016 and 2016 Confidential Financial Disclosure forms on November 6, 2017, 18 months and six months late, respectively – and after being served with a Notice of Violation. Though Mr. French filed his Confidential Financial Disclosure forms he filed them extremely late and has only been fined $300 thus far. On December 7, 2017 the Office of Government Ethics ("OGE") interviewed Mr. French and offered him an opportunity to settle this matter. On December 8, 2017, Mr. French declined the offer to settle and requested to proceed with a full adversarial hearing before the Board. We would like to discuss next steps and scheduling with you.

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. #1398-001 In re Courtney Snowden- Board unanimously voted to make this a public matter.

IX. Adjournment