

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

**MINUTES OF REGULAR MEETING
April 6, 2017**

The District of Columbia Board of Ethics and Government Accountability held its Regular Monthly Meeting on Thursday, April 6, 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 Robert Spagnoletti was present, along with Board Members, Carol Schwartz, Tameka Collier and Shomari Wade. Board Member Norma Hutcheson joined by telephone. Also present on the dais was John (Jack) Grimaldi, the Board’s Senior Counsel.

The full discussion of the meeting is on audio file, and may be found at <https://bega.dc.gov/publication/april-6-2017-board-meeting-minutes>

AGENDA

- I. Call to Order
--Chairman Spagnoletti 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 Government Ethics
 - a. Update on Status of Office of Government Ethics (OGE) Operations – Recap of previous month’s activities (statistics)

	Current	Last month	Dec 2016
Investigations Opened:	3	1	3
Investigations Closed:	0	3	4
Investigations Currently Open:	7	4	6
Investigations Stayed (Inactive):	22	22	22

Stayed Cases	
Nature of Stay	Number
Court (pending motions and one fugitive)	2
OEA (pending motions)	1
OIG	14

OAG (pending civil False Claims Act complaint)	1
Council (pending post-employment action on CCC)	3
IRS/OTR (potential criminal complaint)	1

b. Publication and Reporting Obligations

Our publication and reporting obligations are in compliance. This month it includes publishing 2nd Quarter Complaint Report.

c. Trainings/Outreach –

i. Attended by staff –

Our departed (former) Auditor/Investigator Olawumni attended a planned course on Effective Presentation Skills. Internally, we continue to have weekly meetings on the status of our FDS planning in preparation for the upcoming filing season.

ii. Conducted by staff –

10, down from 15 last month. The 10 trainings include two new employee orientations and MSS (FDS) training, one general Board and Commission training, training sessions at the DC Health Benefit Exchange, Senior Excepted Service employee appointees of the Mayor, the Events DC (Washington Convention Center) Board, Public Service Commission, and the Attorney General’s ANC Legal Seminar where we introduced the ANC’s attendance to the ethics standards contained in the proposes sua sponte opinion. We continue to remind those in attendance of the mandatory training requirement applicable to all employees who are required to file either public or confidential financial disclosure statements.

d. Advisory Opinions/Advice –

Informal Advice: 54, since the last meeting, down from 80 last month.

You have in the drop box today our proposed sua sponte opinion on the ethical standards that apply to ANC Commissioners. We did preview it for the approximately 30 – 40 Commissioners in attendance at the Attorney General Legal Forum, and also provided a copy to Gottlieb Simon, the head of the Office of Advisory Neighborhood Commissions..

e. Ethics Legislation/Comprehensive Code of Conduct

I have nothing to report since the last Board meeting, on our Ethics legislation. At the moment, the Council is busy with Budget hearings having just finished up all of its oversight hearings.

f. Rulemaking

The proposed rulemaking approved by the Board at the February meeting was published in the DC Register on March 10. We can forward the rulemaking for finalization on or after April 10. We have received no comments on the Notice of Propose Rulemaking. That rulemaking, as you may recall, clarifies a fine that will be imposed on employees who fail to file a “true, complete and correct confidential report.”

g. Budget:

The Mayor’s proposed budget was submitted to the Council on Tuesday, April 4th. The good news is that our budget increased by 1.7%, for a \$2,095,202 total budget. The bad news is that we did not get the additional FTE we requested to help with Lobbyist and FDS matters. Worse, we did not receive any funds in the Capital Budget to replace our aging and ailing FDS and Lobbyist E-filing System, which is really on life support at this point. Our options now are beginning to narrow. Notwithstanding the Mayor’s budget I plan to approach the Council directly to seek the FTE and the capital funds. Our Budget hearing is scheduled for April 27. Failing that, I will ask the Mayor to at least reprogram some funds for us so we can get started on the new e-filing system.

On the upside, this will mean that the twice per year filing requirement for Council Members will not go into effect because funds have not been identified as required by the statute.

h. Staffing – We are in the process of filling the Auditor position vacated by Ms. Olawumni this week. I’m pleased to welcome back Attorney Cooks who has returned to the office from FMLA. She is already hard at work on some new training initiatives.

i. Lobbyist/Financial Disclosure Matters

a. Public Financial Disclosure Statements

1. On Friday, April 7, 2017, we will be sending out approximately 3,000 notifications to designated Public Financial Disclosure Statement Filers and Advisory Neighborhood Commissioners (who are required to file Public Certifications). Filers will receive both hard copy and email notifications. Due to the success of the “Who’s a Filer Training” conducted by Janet Foster, the number of “newly designated filers” has increased.
2. The Ethics Act currently requires all Washington Metropolitan Area Transit Authority board members to file confidential financial disclosure statements. The WMATA board is made up of 16 members, 4 of whom are appointed by the District. The other 12 members are appointed by Maryland, Virginia, and the US Department of Transportation, respectively. The Council just passed legislation requiring only District-appointed WMATA board members to file financial disclosure statements because it found that it would be inappropriate to require disclosure by non-District affiliated individuals. In addition to limiting the disclosure requirements to those four members, this legislation will also require those district-appointed board members to file public disclosure statements in lieu of confidential reports. The legislation is projected to become law on April 7, 2017 (this Friday). Because this new legislation is occurring in the middle of the FDS filing season, we would like the Board’s guidance as to whether we should require the District-appointed board members to file publicly this year or if we should notify them of the change in the law and require public filing during the next filing season. For your reference, two of the District appointed WMATA members already file publicly because of their other positions in District government.
3. We are still in the process of compiling a list of Boards and Commissions that are currently exempt from the filing requirement, that we believe should be required to file given their duties and responsibilities. We will present that list to you, along with a description of those Board and Commissions’ activities, upon completion.

b. Confidential Financial Disclosure Statement Enforcement

1. Last month we reported that an audit of the 2016 Confidential Financial Disclosure Statement Review Reports revealed that approximately 107 employees failed to submit their CFDS forms to their agency head by the May 16, 2016 deadline. We continued to reach out to these non-compliant filers throughout March and instructed them to immediately file their CFDS with their agency. In response, approximately 11

employees filed their CFDSs with their agency, leaving 96 remaining non-filers. We're working with agency ethics counselors to bring these remaining employees into compliance.

c. Lobbyists

1. Director Sobin will speak at a D.C. Bar event on April 12th entitled The Ethics of Lobbying in D.C. The session will cover the requirements for being a lobbyist in the District and will also include a discussion of recent legislation regarding lobbying. Other speakers at the event include Thorn Pozen, Rod Woodson and Claude Bailey. A flyer regarding that event is in your drop box.
2. Ms. Olawumni completed her audit of Manatt Phelps, one of the lobbyists involved in the Pepco-Exelon merger. As you will recall, Public Citizen and the Chesapeake Climate Action Network submitted a request asking that we carefully review the "lobbyist activity reports filed by Exelon Corporation and its lobbyists covering the period between July 2015 and January 2016." Ms. Olawumni submitted her Statement of Findings to Manatt Phelps on March 31st and we are awaiting their response, which is due next Friday. We will present you our Final Audit Report once we review Manatt's responses and incorporate its responses into the Statement of Findings. This is the last of the audits related to the Pepco/Exelon merger.

j. Non-Confidential Investigations

V. Opportunity for Public Comment

- VI. **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).

VII. Resumption of Public Meeting

- a. Discussion of any remaining public items

VIII. Adjournment