

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

**MINUTES OF REGULAR MEETING  
AUGUST 3, 2017**

The District of Columbia Board of Ethics and Government Accountability held its Regular Monthly Meeting on Thursday, August 3, 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/publication/august-3-2017-board-meeting-minutes>

**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	March 2017
Investigations Opened:	4	1	8
Investigations Closed:	3	3	3
Investigations Currently Open:	17	16	18
Investigations Stayed (Inactive):	24	23	23

<b>Stayed (Inactive) Cases</b>		
Nature of Stay	Number	Date Rec
Court (pending motions and one fugitive)	2	Jan. 2016
OEA (pending motions)	1	
OIG	16	Jan. 2016
OAG (pending civil False Claims Act complaint)	1	Sept. 2016
Council (pending post-employment action on CCC)	3	June 2016
IRS/OTR (potential criminal complaint)	1	Jan. 2016

b. Publication and Reporting Obligations

June 30 marked the end of the 3<sup>rd</sup> Quarter of FY 17, so we have updated our performance measures for the 3<sup>rd</sup> Quarter. We met or exceeded our goals in each category. It is uncertain at this point how the backlog at OCTO in fulfilling email search requests will affect next quarter's statistics. The delay was between 4 and 6 weeks, which accounts for a large amount of time given our 120 day timeline for investigations. Fortunately, OCTO appears to have resolved the problems. The report is in your dropbox and on the City Administrator's website.

c. Trainings/Outreach –

i. Attended by staff –

Last month, I attended the annual meeting of the Uniform Law Commission, of which I have been a member for more than 15 year. The ULC is a 125-year-old organization of more than 300 attorneys from the 50 states and territories, responsible for recommending uniform state laws. It has always treated the District of Columbia the same as a state. At the meeting, I was appointed to a newly formed ethics committee, where we are to undertake a study of best practices on the application of ethics rules to nongovernmental organizations. I also spoke to a District of Columbia History class at Cardozo High School on changes in the District government since Home Rule, and attended a training program offered by Senior Attorney Grimaldi that is described in more detail below.

ii. Conducted by staff –

11, which is two more than the 9 conducted last month. The 11 trainings include: two new employee orientations and MSS (FDS) trainings, one

general Boards and Commission training, a training session at the Child and Family Services Agency, a joint ethics training for DSLBD and the Office of the Deputy Mayor of Greater Economic Opportunity, a training for EOM staff, an ethics training for Council member Charles Allen's Office, and our monthly ethics training. Senior Attorney Grimaldi presented a training session for OAG that covered the history of the Religion Clauses in the First Amendment and the Supreme Court's recent decision in *Trinity Lutheran Church v. Comer*, which held that the Free Exercise Clause prohibits a state from excluding a church from an otherwise available public benefit program. As an attendee, I can report that the training was both scintillating and informative – and a good reason to work Mr. Grimaldi into our training rotation.

- iii. Ethics Day- Last year BEGA held its annual Ethics Day and Best Practices Symposium on October 20th at the UDC David A. Clarke School of Law. This year, we are proposing that the Board hold Ethics Day on Thursday, October 19, subject of course to the Board's prerogative. We also believe that the Board Meeting can be held in the morning with Ethics Day to follow beginning after a reception at noon, to be held here, at One Judiciary Square, a location that may be more accessible to District employees, not to mention BEGA staff. We are proposing to invite the OIG, OCF, and DC Auditor to make presentations in addition to OGE and OOG. We are also planning to roll out a new training presentation that will include 6 new 30 second videos similar to the Ms. Ethics video that has proven to be popular. The goals are outreach and education as we try to find ways to increase the number of employees attending in-person trainings. We are also close to finalizing an on-line training module that has been long in the making. The online training module will allow us to require that FDS filers certify that they have taken ethics training to fulfill the existing statutory requirement that all filers certify on an annual basis that they have completed at least one ethics training program within the previous year.

d. Advisory Opinions/Advice –

Informal Advice: approximately 59, since the last meeting, down from 78 last month. This includes some of the inquiries relating to lobbyist registration matters, likely driven by last month's deadline. I would suspect that many employees are on leave during this period which could impact those numbers.

We received no new formal requests for opinions since the last meeting. Several were submitted as what appeared to be formal requests, but once the requests were analyzed, it was determined that informal advice, generally in the form of an email was sufficient. This is one of our performance measures – the percentage of advice requests that were handled as informal rather than formal inquiries.

e. Ethics Legislation/Comprehensive Code of Conduct

In response to a request to schedule a meeting with Councilmember Charles Allen and his staff to discuss the CCC during the recess, we were told by the Councilmember's Committee Director that a second hearing on the CCC has been tentatively scheduled for November 2. The Committee would also take up that day Bill 22-38, which would require lobbyists to file monthly activity reports, and Bill 22-344, which would amend the definition of "lobbying" to require disclosure of all communications with executive and legislative branch officials made with the purpose of influencing contracts and other procurement actions. So there'll be lots to discuss at the meeting, which we hope to have in the next several weeks. Councilmember Allen's Office has proposed several tentative dates.

f. Rulemaking

There has been no rulemaking activity since the last meeting.

g. Budget:

We have continued to hold monthly budget meetings. The next budget meeting will include both OGE and OOG, as part of the re-integration of the offices.

h. Staffing –

We are in the process of upgrading one of our investigator positions. Once that process is complete, we will focus on recruiting for one of the two administrative support positions we received in the FY18 budget.

i. Lobbyist/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. Approximately 90% of designated filers for this year have filed their forms. On June 16, 2017 we published the list of filers and non-filers to the DC Register. We have also published that information to our website, which we believe may encourage additional employees to file. We will continue to update that list as employee file their forms. We have been able to maintain a 24-hour response time for all FDS inquiries.

- b. 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 whether employees are still employed with the District or separated.

- c. Confidential Financial Disclosure Statement Enforcement (for last year)

Last month, we informed you that we sent out, on June 21, 2017, fine letters to twenty-one (21) Confidential Financial Disclosure Statement filers who failed to file last year. After receiving status updates from ethics officers, we discovered that six (6) of the twenty-one (21) employees either properly filed their CFDS or have long been separated from the District. Three (3) employees have recently filed their forms. We are in the process of seeking garnishments in the amount of the \$300.00 fine associated with late filing for those three employees who filed their 2016/2015 after our June 21st fine letter. We are prepared to bring enforcement actions against the remaining twelve (12) employees, who have failed to file their form and failed to pay their fine. Many of these employees have also failed to file their 2017/2016 CFDS form. I believe it to be more appropriate to discuss the next steps in our enforcement efforts that may result in litigation in the Executive Session.

- e. Lobbyists

- a. Lobbying Activity Reports detailing lobbying activity conducted during the first six months of 2017 were Monday, July 10, 2017. To date, all registered lobbyists who were required to file their lobbying activity reports have filed. 10 registered lobbyists, however, late-filed their report and were assessed late-filing fines. Of those lobbyists, 7 have paid their fines. We are working on collecting fines from the remaining three lobbyists. No fine waiver requests were submitted.

- b. We have begun a desk review audit of the July 2017 lobbying activity reports. The January audits have been completed. There were a few discrepancies found, but nothing that resulted in adverse findings with respect to any of the subjects. Our review is focused on gifts given by lobbyists to public officials, whether there are persons or entities that engaged in lobbying during the first half of this year without registering, and whether both lobbyists and their clients are properly registered.

- j. Non-Confidential Investigations

- 1. #1426-001: *In re G. Price* - We transmitted the complete agency record to the Court of Appeals shortly after our July Board meeting.

The Court of Appeals has set a briefing schedule in this matter: Mr. Price's brief is due August 26, 2017 and our response is due September 25, 2017. The Office of the Attorney General is representing BEGA on the appeal.

2. *#1344-002: In re J. Bazemore*- This is a formal investigation pursuant to D.C. Official Code § 1-1162.12(b). OGE received a complaint which alleged that Mr. Bazemore, a former-employee of D.C. Child and Family Services Agency (CFSA), had misused government property by renting Zipcar vehicles under CFSA's Zipcar account without approval and/or during hours outside of his tour-of-duty. Our investigation revealed that Mr. Bazemore rented Zipcars during overnight hours, weekends, and while on leave. During an interview with OGE staff, Mr. Bazemore admitted to using CFSA Zipcars for personal reasons rather than official government purposes, in violation of the Code of Conduct. He expressed remorse for his conduct and agreed to pay a fine of \$4500.00, by monthly payments of \$400.00. Pursuant to D.C. Official Code § 1-1162.21 (a)(4)(A)(v) OGE we are presenting the public negotiated disposition entered into by the Interim Director of Government Ethics and Mr. Bazemore to the Board for approval. **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

IX. Adjournment