

Baltimore City Ethics Board
635 City Hall
Baltimore, MD 21202
October 12, 2022

Minutes of the Meeting

The Ethics Board met on October 12, 2022 at 2:30 pm by conference call.

Call to Order: Chairman Stephan Fogleman called the Ethics Board meeting to order at 2:33 pm with all board members, a quorum, present.

Review of Schedules and Agenda: Member Hengerer stated that she has another commitment at 4 pm.

Statement Concerning September's Administrative Session and Potential Administrative Session: Chair Fogleman read the following statement:

Per the Open Meetings Act, the Board discloses that it adjourned its virtual open meeting on September 14, 2022 to enter into an administrative session at approximately 3:42 pm. Three Board members were present. Members discussed administrative matters including complaints.

The Board may need to close some or all of this meeting to preserve the confidentiality mandated by the Ethics Code or as otherwise authorized by the State Open Meetings Act. Likewise, upon adjournment of the Open Session, the Board may reconvene for an Administrative Session to discuss non-public, administrative functions of the Board.

Baltimore Development Corporation (BDC) Gift Solicitation Waiver Application: Executive Assistant Beverly Lanier with the Baltimore Development Corporation (BDC) attended the Public Meeting. Ethics Officer Ford stated that BDC annually applies for a gift solicitation waiver to broadly solicit and accept donations for BDC, and that BDC filed the previous campaign's final report.

Vice Chair Davis requested clarification about BDC's proposed solicitation of government funding, since the application indicates that no general funds will be used. Executive Assistant Lanier responded that it is her understanding that BDC will not use their own funds for the waiver campaign's initiative, but that BDC will solicit funds from other public and private sources. Davis stated that she did not need further clarification from Lanier.

With a vote of 4-0, the Board approved the waiver.

Approval of Written Minutes for September 14, 2022 Public Meeting: Ethics Officer Ford corrected the number of August help desk requests presented at the September Public Meeting, stating that four, not five, inquiries were received about the Ethics Training, thus changing the total number of help desk requests to 82. The Board approved the minutes with a vote of 4-0.

City Council Bill 22-0275 (“Ethics – Conforming Changes”): Ethics Director Amberger reminded the Board that City Council Bill 22-0275 brings the Baltimore City Public Ethics Law into conformance with the Maryland Public Ethics Law. Amberger explained that one of the Bill’s proposed changes is the prohibition on soliciting gifts from anyone, regardless of whether a controlled donor. Amberger opined that this change would increase the number of charitable/governmental gift solicitation waiver applications.

Vice Chair Davis inquired about the application of this prohibition to one’s professional life outside of the City. Ethics Officer Ford explained that she had posed a similar question to the former Ethics Director, Jeff Hochstetler, regarding Ford’s fundraising at her church, but that the question had not otherwise been posed to the Ethics Board. Davis expressed concern about prohibiting public servants from soliciting gifts in their personal life and later explained that in her past work, employees were only prohibited from using their work email and resources when fundraising in their personal life.

Member Hengerer asked Ethics Board staff if there is existing guidance from the State Ethics Commission on the matter and Ethics Director Amberger responded, stating that he does not believe there exists such guidance. Ethics Officer Ford proposed that the Ethics Board publish an advisory opinion on the matter and agreed to research how different local jurisdictions interpret this provision.

Ethics Director Amberger inquired about the Board’s position on the Bill. Member Hengerer responded, stating that the Ethics Board is required by State Ethics Law to comply. In response to Hengerer’s inquiry about the Bill’s timeline, Ford stated that the hearing has not yet been scheduled.

City Council Bill 22-0260 (“Ethics Board Financial Disclosures – Public Inspection – Identifying Information”): Ethics Director Amberger reminded the Board of City Council Bill 22-0260’s proposal to eliminate family members’ addresses from filers’ financial disclosure statements. Amberger confirmed that Board staff corrected ambiguous language in the financial disclosure statement’s instructions and staff worked with Baltimore City Information & Technology (BCIT) to remove personal address fields from the financial disclosure statement.

Ethics Director Amberger then explained that City Council Bill 22-0260 proposes removing the requirement in the Ethics Law to identify “viewers,” individuals who inspect financial disclosure statements. Amberger then described the Financial Disclosure Site’s viewer registration process, which is similar to the State’s process.

Ethics Director Amberger stated that the Law Department has not yet filed a response to City Council Bill 22-0260, but that the Chief Solicitor and former Ethics Director, Jeff Hochstetler, provided an analysis on the matter, which was shared with the Board. Amberger then outlined the various arguments about the Bill:

- The City and the State do not verify the identity of viewers on their financial disclosure filing sites, but only ensure that a valid email address is provided. Ultimately, since viewers are not required to prove their identity, the registration process could be perceived as a hinderance to transparency by making it more difficult to inspect financial disclosure statements.
- The State Ethics Commission’s General Counsel stated that local jurisdictions are not obligated to require viewers’ identification for local law to comply with the State Ethics Law. However,

Amberger challenged this analysis, stating that the State Ethics Law requires local jurisdictions to conform to the State's financial disclosure provisions, which require the identification of viewers.

- The identification of viewers ultimately creates a *quid-pro-quo* scenario, requiring viewers to identify themselves in exchange for their inspection of financial disclosure statements. Eliminating this exchange would allow anyone to easily access the data disclosed on financial disclosure statements, including automated "bots."

Member Hengerer stated that it is not the Ethics Board's responsibility, but another City entity's responsibility, to protect the public's personal information. Hengerer proposed that the Ethics Board revise the financial disclosure statement so that filers disclose the minimum amount of information required by the Ethics Law, thus preventing the collection of any unnecessary information. To do this, Hengerer requested that the Law Department determine which information must be disclosed under the Ethics Law.

Ethics Director Amberger proposed requesting an opinion from the Law Department that: 1) identifies the information filers are required to disclose on financial disclosure statements; 2) explains what personal information is protected under law; and 3) analyzes the various arguments Amberger previously provided on the Bill's proposed elimination of viewer identification.

Member Hengerer requested that the appropriate individual from the Law Department attend the Board's November meeting to elaborate on these issues and Ethics Director Amberger consented to this request.

Member Sampson noted that an individual can create a fake account on the Financial Disclosure Site and can access filers' financial disclosure statements. Sampson then asked if the Ethics Board could provide different types of access to certain "pools" of viewers to prevent fraudulent accounts from accessing all information disclosed on financial disclosure statements.

In response, Ethics Officer Ford explained that the Financial Disclosure Site has many technical limitations and, since the Ethics Board does not have a budget for the site, the Board is unable to request significant changes to the site. Ford stated that a more plausible solution would be to ensure that only necessary information is collected on the financial disclosure statement.

Ethics Director Amberger suggested that certain personal information be hidden from financial disclosure statements when inspected. Amberger stated that he will include this proposal in his request for an analysis by the Law Department. Member Hengerer agreed, proposing that the Board ensure that only the necessary information is collected, and that certain information is concealed from inspection.

2022 Annual Report: Ethics Officer Ford stated that the Ethics Board's 2022 Annual Report was published and distributed to the media.

The public meeting adjourned at 3:13 pm.

September Help Desk Metrics¹:

- Ethics Training
 - Ethics Board staff enrolled 51 people in August-September. Of those enrolled:
 - 4 people completed the training via the Ethics Board's website.
 - 39 people completed the training via Workday.
 - 64 people completed the training via Workday after self-enrolling in August-September.
 - Soon, all employees with Workday access will self-enroll in the training and will no longer register with the Ethics Board.
 - **FY23 attendees: 119**

- Help Desk
 - 53 help desk requests were received and resolved by the Ethics Board Staff in September.
 - 2 help desk requests were from lobbyists.
 - 14 help desk requests were concerning gift solicitations.
 - 4 help desk requests were concerning financial disclosure statements.
 - 21 help desk requests were ethics inquiries.
 - 3 help desk requests were concerning the Ethics Training.
 - 7 help desk requests were administrative (question about deadlines, forms, etc).
 - 2 help desk requests were not within the Board's jurisdiction and were referred elsewhere.
 - **FY23 requests: 196**

- Complaints
 - Since last Ethics Board meeting:
 - New Complaints: 2 (dismissed for lack of jurisdiction)
 - Open Complaints: 2
 - **FY23 Complaints: 3 (2 pending from FY22)**

- Advisory Opinions
 - Requests: 0
 - Pending: 2
 - **FY23 Issued Opinions: 0**

- Secondary Employment Waivers
 - Pending: 1
 - **FY23 Granted Waivers: 0**

- Gift Solicitation Reports (since last Ethics Board meeting)
 - 1 gift solicitation application was submitted to the Ethics Board.
 - 0 gift solicitation campaigns expired.

¹ The September help desk request metrics were not presented at the Ethics Board meeting, although they are included in the written minutes.

- 2 gift solicitation campaigns filed a final report.
 - Pending additional information for 3 final reports filed previously.
- 2 gift solicitation campaigns filed an interim report.
- **FY23 Active Waivers: 18**
- **FY23 Expired Waivers: 4**