

Baltimore City Ethics Board
635 City Hall
Baltimore, MD 21202
May 10, 2023

Minutes of the Meeting

The Ethics Board (“Board”) met on May 10, 2023 at 2:30 pm by conference call.

Call to Order: Chairman Stephan Fogleman called the Board meeting to order at 2:36 pm with three board members, a quorum, present. Member Hengerer was absent.

Review of Schedules and Agenda: Chair Fogleman inquired about any commitments that would conflict with the Board meeting and the Board members agreed to adjourn the meeting at 4:30 pm.

Statement Concerning April’s Administrative Session: Chair Fogleman read the following statement:

Per the Open Meetings Act, the Board discloses that it adjourned its virtual open meeting on April 12, 2023 to enter into an administrative session at approximately 2:49 pm. All 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.

MIMA New American Communities and the Baltimore Immigrant Community Fund Charitable/Governmental Gift Solicitation Waiver Applications, Mayor’s Office of Immigrant Affairs: Masuma Lonczak, Deputy Director of the Mayor’s Office of Immigrant Affairs (MIMA), was present at the Public Session. Lonczak provided an overview of the Charitable/Governmental Gift Solicitation Waiver applications for the MIMA New American Communities program and the Baltimore Immigrant Community Fund. Lonczak explained that both applications propose soliciting contributions to provide resources and services for immigrant communities and that both programs would use the Baltimore Civic Fund as the fiscal sponsor.

Officer Romo stated that MIMA had received a Charitable/Governmental Gift Solicitation Waiver from the Board for the Baltimore Immigrant Community Fund previously and that the office had complied with the waiver’s requirements and filed all reports for the program.

The Board moved with a vote of 3-0 to approve waivers for both the MIMA New American Communities program and Baltimore Immigrant Community Fund.

Summer Fridays Charitable/Governmental Gift Solicitation Waiver Application, Councilmember Cohen’s Office – Pending BOE Endorsement: Chief of Staff in Councilmember Cohen’s Office, Maggie Master, was present at the Public Session. Master explained that the Baltimore City Public School System will only provide programming for youth for four days each week during the summer. Master

stated that Councilmember Cohen's Office requests a Charitable/Governmental Gift Solicitation Waiver to broadly solicit donations to provide field trips for youth on Fridays during the summer. Master stated that the program's fiscal sponsor¹ would partner with Baltimore Promise to distribute contributions.

Master clarified that the application had not yet received endorsement from the Board of Estimates and requested amending the application so that Councilmember Cohen's Office may solicit more donations than what was previously provided. The Board accepted the amendment to the amount of contributions sought.

The Board moved with a vote of 3-0 to approve the waiver, contingent on endorsement by the Board of Estimates.

Request for Guidance – HCB Ethics Requirements – Councilmember Cohen's Office: Officer Romo explained that Councilmember Cohen's Office had received multiple Charitable/Governmental Gift Solicitation Waivers from the Board to broadly solicit donations for Healing City Baltimore (HCB), a program within Councilmember Cohen's Office. Romo further explained that HCB is now a separate entity from Councilmember Cohen's Office with its own staff, who are not City employees. Romo stated that HCB Director Kimberly Lagree-Saleh had inquired about the Ethics Law's jurisdiction over HCB and if HCB staff must request Charitable/Governmental Gift Solicitation Waivers from the Board in order to broadly solicit donations.

Romo provided an analysis of the matter, stating that, since HCB is a non-City entity and its staff are not City public servants, it is Board staff's understanding that HCB is not subject to the Baltimore City Public Ethics Law. Rather, Romo opined, employees within Councilmember Cohen's Office must apply for a Charitable/Governmental Gift Solicitation Waiver if they intend to broadly solicit donations for HCB.

HCB Director Lagree-Saleh was present at the Public Session and provided additional information about HCB's independence, stating that operational staff are paid by ARPA funds received from the Mayor's Office of Neighborhood Safety and Engagement. Lagree-Saleh stated that Maryland non-profits, including the Harry and Jeanette Weinberg Foundation, provide additional funding for HCB, noting the Councilmember Cohen will no longer serve on the entity's steering committee. In response to the Board's inquiry, Lagree-Saleh confirmed that none of the HCB staff are employed by Councilmember Cohen's Office; Francis Parker-Hale, LEE Fellow in Councilmember Cohen's Office, whose fellowship will end in May, is the only individual assisting HCB during its transition into an independent entity. Lagree-Saleh clarified the Maryland Philanthropy Network is HCB's fiscal sponsor and that HCB does not anticipate any fundraising efforts between itself and Councilmember Cohen's Office.

Amberger noted that pending legislation, City Council Bill 23-0376 ("Accountability and Transparency in City Grantmaking"), proposes identifying entities that receive City funds as "quasi-governmental agencies," placing them within the jurisdiction of the Baltimore City Public Ethics Law.

Director Amberger agreed to draft guidance on the matter and to provide that guidance to the Board.

¹ During the public meeting, Master stated that the Baltimore Civic Fund would serve as the program's fiscal sponsor. Master later clarified to Board staff that the FUND for Educational Excellence will serve as the fiscal sponsor, as provided in the waiver application.

Request for Guidance – Emergency/Disaster Donations – Office of Emergency Management, Fire Department: The Director of the Office of Emergency Management (OEM), Deputy Chief James Wallace, Executive Assistant Shamika Smith, and Emergency Planner Elise Major Whitefield were present at the Public Session. Deputy Chief Wallace explained that OEM staff are rewriting the City’s Emergency Operations Plan and is consulting the Board on OEM’s donations management policy. Wallace explained that donors approach OEM in times of disaster with monetary and in-kind donations and that his office would like to ensure that the policy concerning such donations is compliant with the Ethics Law.

Officer Romo explained that the Ethics Law prohibits public servants from accepting gifts from “controlled donors,” individuals and entities with certain affiliations with the City. Romo stated that, in the event of an emergency, it may prove difficult for the OEM staff to vet donations and ensure that donations are not accepted from controlled donors. Romo inquired about how OEM staff should proceed with developing a policy around donations that is compliant with the Ethics Law.

Romo further explained that the Ethics Board Regulation R 06.26.1 permits a public servant to broadly solicit donations for a charitable/governmental program, so long as the public servant receives a waiver from the Board and discloses information about the solicitations and donations. Romo stated that the OEM does not intend to solicit donations. Romo clarified that the Board may exempt a specific gift or class of gifts on written finding that the acceptance would not be detrimental to the impartial conduct of City business.

Chair Fogleman opined that the Board should not create a policy on the matter that suspends requirements in the Ethics Law. Rather, Fogleman stated that Board staff should provide guidance to OEM staff on vetting donations from controlled donors.

Director Amberger proposed providing Board staff’s contact information in OEM’s donation management policy so that the Board and its staff can assist with the vetting and acceptance of donations in the event of an emergency. Member McCauley inquired about the recipient of the donations, noting that the Fire Department acts as a pass-through entity for donations. Amberger responded to the inquiry, noting that such a scenario is not explicitly addressed in the Ethics Law. Deputy Chief Wallace explained that OEM is housed within the Fire Department, but coordinates the City’s response to emergencies and collaborates with other agencies to do so.

The Board agreed to provide guidance to Deputy Chief James Wallace on the matter. Wallace requested permission to identify the Board as a secondary agency in case of an emergency on OEM’s donations management policy, to which the Board consented to being a point of contact.

Approval of Written Minutes for April 12, 2023 Public Meeting: Member McCauley abstained from the matter since he was not present at the April 12, 2023 meeting. Since the Board did not have a quorum, the Board agreed to defer making a motion on the April 12, 2023 public minutes until the subsequent Board meeting.

Ethics Officer’s Update: Officer Romo stated that the deadline for annual financial disclosure statements was Monday, May 1, 2023 and that, on May 8, 2023, Board staff sent a five-day late notice to

approximately 213 public servants that had not yet filed their annual statement. Romo confirmed that, at the same time in the previous year, there were more than 400 outstanding filers.

Romo explained that the Ethics Law requires the Board to send a 15-day late notice to outstanding filers and to notify their agency, the Director of the Department of Human Resources, and the City Solicitor of their noncompliance. Romo also explained that the law requires the Board to refer outstanding filers to the Office of the Inspector General for investigation after 30 days following the deadline and the Board may recommend that outstanding filers be suspended without pay until they file after 60 days following the deadline. Romo clarified that the Ethics Law authorizes the Board to impose daily late fees, which the Board can discuss during its administrative session.

Romo agreed to provide the total number of help desk requests received in April, as well as the total number of Ethics Training attendees in April, at the subsequent Board meeting.

In response to McCauley's inquiry, Romo stated that there are approximately 2,800 required financial disclosure filers under the Ethics Law, which has increased in the previous years.

Director Amberger stated that Board staff requested additional funding to improve the financial disclosure filing system. Romo explained that the current filing site has a number of technical errors, such as statements disappearing from the site and data "shuffling" from one statement to another. Romo stated that she frequently works with the City's IT Department to resolve the issues.

Mayor Scott's Happy Thanksgiving Dinner Distribution and Veterans Day Parade Charitable/Governmental Gift Solicitation Waiver Applications, Mayor's Office – BOE Endorsement: Officer Romo reminded the Board members that the Board had approved both waiver applications contingent on their endorsement by the Board of Estimates. Romo stated that both applications had been endorsed by the Board of Estimates.

City Council Bill 23-0364 ("Baltimore City Fiscal Policy Democratization Task Force – Establishment") – Draft Response: Director Amberger reminded the Board members that the Board had deferred the matter from the previous Board meeting. Amberger provided an overview of the bill, which proposes establishing the Baltimore City Fiscal Policy Democratization Task Force and designating the Ethics Board Chair as a member. Amberger also explained his draft response, which recommends amending the Ethics Law to identify the Task Force as an entity that is subject to the Ethics Law's financial disclosure provisions and clarifies that the Ethics Law prohibits the Ethics Board Chair from serving on the Task Force. The Board moved with a vote of 3-0 to approve the draft bill response.

Executive Nomination EA23-0193 Noelle W. Newman – Nomination: Director Amberger stated that Noelle Newman was nominated for the Board².

The Public Session adjourned at 3:42 pm.

² Director Amberger incorrectly stated that the City Council President nominated Noelle Newman for the Board; the Mayor made the nomination.