

MINUTES OF THE ETHICS HEARING BOARD

City of Pittsburgh Ethics Hearing Board (“Board”)

Video Meeting via Zoom and Livestreamed on Pittsburgh City Channel YouTube

April 5, 2022

Board Members Present:

Patrick Bigley
Brazitte Poole
Maryann Herman
Alex Matthews
Rhoda Neft
Orlando Portela-Valentín
Jennifer Richnafsky
Heather Watson
Lynn Davenport

Board Members Absent:

None

Staff, Advisors and Others Present:

Leanne Davis, Executive Director
Karl Gassmann, Investigator & Engagement Coordinator
City Channel Staff (during open sessions of the meeting)

- I. Call to Order
 - a. This meeting was called to order at 4:27 p.m. by Board Chair, Alex Matthews. The meeting was livestreamed on the City’s YouTube Channel.

- II. Public Comment:
 - a. There was none.

- III. Minutes:
 - a. After a review of the March 1, 2022 minutes, Patrick Bigley moved to adopt the minutes. Brazitte Poole seconded the motion, whereupon the Board voted unanimously to approve the minutes, with Lynn Davenport abstaining, due to her absence at the March meeting.

- IV. Committee Reports
 - a. Gifts
 - i. Rhoda Neft discussed the committee’s review of a valuable gift per 197.07(f). The Executive Director noted the opinion will be uploaded to the Board’s new webpage on gifts, coming soon. The valuable gifts subcommittee serve to provide a review of the propriety of accepting gifts valued at \$500 or more. Gifts at this higher dollar value often relate to conveyances of travel and lodging.

 - b. Legislation

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- i. Jennifer Richnafsky presented the committee’s proposed edits to 197.02, 197.07, and 197.12. The proposed edits would:
1. Address definitional and typographical and errors in sections of Chapter 197.
 2. Correct the definition of “direct family” to include the term “spouse” in 197.02.
 3. Revise the statute of limitations in 197.12 to match the state’s statute of limitations period.
 4. Update wording in section 197.12 (a) and (b) to say “staff” instead of “Executive director,” and “Probable Cause Panel” instead of “Board” in (b)(6).
 5. Strike specified dates of procedural operations in 197(b)(4) which should be moved to regulations.
 6. Change the procedure of designating members to a valuable gifts subcommittee in 197.07(f) so that the deciding body may include more than two members.
 7. Remove requirement in 197.07(f) to list board member contact information on website; instead, requests can be made through staff.
 8. Remove requirement in 197.07(f) to rotate committee members in a particular way.
 9. Change “employee” to “requesting party” in 197.07(f) to allow public officials to request advice.

- ii. Patrick Bigley moved to adopt the proposed changes to 197.02, as follows:

(j) **PUBLIC EMPLOYEE.** Any individual employed by the Commonwealth or a political subdivision who is responsible for taking or recommending official action of a nonministerial nature with regard to:

- (1) Contracting or procurement;
- (2) Administering or monitoring grants or subsidies;
- (3) Planning or zoning;
- (4) Inspecting, licensing, regulating or auditing; or,
- (5) Any other activity where the ~~official's~~official action has an economic impact of greater than a *de minimus-minimis* nature

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(d) **DIRECT FAMILY.** A parent, step-parent, spouse or domestic partner as outlined in Chapter 186, child, step-child, sibling, step-sibling, grandparent, grandchild, parent-in-law, sibling-in-law, aunt, uncle or first cousin.

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- iii. Rhoda Neft seconded the motion, whereupon the Board voted unanimously to approve the suggested changes to 197.02.
- iv. Then, Brazitte Poole moved to adopt the requested changes to 197.07 (f) on Valuable Gifts Review, as follows:

(f) ~~Ethics Board~~ Review of gifts valued at five hundred dollars (\$500.00) or higher. The Ethics Hearing Board will designate at least two (2) members (hereinafter the Subcommittee) who will evaluate the propriety of gifts valued at five hundred dollars (\$500.00) or more. The subcommittee members will rotate their duties ~~periodically, on a quarterly basis, according to the initials of the Board members' last names.~~ Contact information for Instructions on how to file a request with the Subcommittee will be posted on the City's website. Requests for approval of gifts valued at five hundred dollars (\$500.00) or more shall be made in written hard copy or e-mail to the Subcommittee, and shall specify the nature of the gift, its approximate value, the name and employer of the donor, the public purpose of the gift, and any other material facts. The Subcommittee will evaluate the propriety of the gift according to the following criteria:

- (1) The value of the gift and its relation, if any, to the requesting party's ~~Employee's~~ official functions;
- (2) The public purpose of the gift.
- The Subcommittee will issue a written opinion within twenty-one (21) days unless the Employee requests requesting party seeks a shorter timeline. The opinion will include all material facts relied on by the Subcommittee, and articulate a basis for the decision. All opinions will be posted on the City's website. The requesting party ~~Employee~~ will have the right to appeal the decision to the entire Ethics Hearing Board. Gifts from immediate family members are exempt from this subsection.

- v. Rhoda Neft seconded the motion, whereupon the Board voted unanimously to approve the proposed changes to 197.07 (f) on Valuable Gifts Review.

- vi. Patrick Bigley moved to adopt the changes to 197.12, as follows:-

§ 197.12 - COMPLAINTS, INVESTIGATIONS AND HEARINGS.

(a) *Complaint.*

- (8) A complaint must be filed within the longer of either ~~one~~ five (~~5~~) years after the alleged violation took place or ninety

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(90) days after complainant became aware of the alleged violation.

(9) The Probable Cause Panel of the Ethics Hearing Board may, on its own initiative, determine through an inquiry into informal allegations or information provided directly to the Ethics Hearing Board, through the hotline, by referral, in the public news media, or otherwise that a violation of this Code may exist, and prepare a complaint of its own. An internally originated complaint must still be considered by a Probable Cause Panel.

§ 197.12 - COMPLAINTS, INVESTIGATIONS AND HEARINGS.

(b) *Investigations.*

(1) If probable cause has been found pursuant to the process described in this Section, the Ethics Hearing Board, through its ~~staff, Executive Director~~ must conduct an investigation. In conducting such an investigation, the ~~staff Executive Director~~, or his/her designee on behalf of the Ethics Hearing Board may administer oaths or affirmations, subpoena witnesses, compel their attendance, and require the production of any books or records it deems relevant and material.

(4) The subject may file ~~with the Ethics Hearing Board~~ a response to the complaint, and the complainant may reply, in accordance with the Board's rules and regulations, within thirty (30) days after his or her receipt of the complaint. The response, if any, must be sent to the complainant by the Ethics Hearing Board within five (5) working days after its filing. Within fifteen (15) days after receipt, the complainant may file with the Ethics Hearing Board a reply to the subject's response. The Ethics Hearing Board must send to the subject the complainant's reply within five (5) working days after its filing. If no reply ~~or to the subject's~~ response is received in ~~the regulated~~ time frame, ~~the subject or~~ complainant is deemed to have waived the opportunity ~~to reply~~, and the Ethics Hearing Board shall proceed with the complaint. If any required filings fall on a weekend or a City recognized holiday, the date of filing will be extended to the next working day.

(5) During the investigation period, the Probable Cause Panel of the Ethics Hearing Board may amend a complaint to include

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other subjects and violations which it reasonably suspects to have occurred. It must send a copy of any such amendment to the subject and complainant within seven (7) days after the amendment has been made.

(6) After the investigation is completed, ~~staff the Executive Director~~ will submit his/her investigative report to the Probable Cause Panel of the Board indicating whether the investigation revealed a code violation by a subject within the Board's jurisdiction. ~~If the investigation revealed a code violation, the Executive Director may make a recommendation for~~ The Probable Cause Panel will review staff's recommendation, and determine whether to proceed to a hearing or. ~~If the investigation reveals no code violation, the Executive Director may recommend to the Probable Cause Panel~~ to terminate the case.

vii. Rhoda Neft seconded the motion, whereupon the Board voted unanimously to approve the changes to 197.12.

c. Thank you to Lynn Davenport

i. Members of the Board and the Executive Director took a moment to express their gratitude to Lynn Davenport for her outstanding contributions and dedicated service spanning multiple terms.

d. Campaign Finance and Disclosures

- i. At this point in the meeting, Chair Alex Matthews and Patrick Bigley had to leave early and Vice Chair Maryann Herman commenced running the meeting.
- ii. The Executive Director discussed the state's annual Statement of Financial Interests disclosure and EHB staff's efforts to assist and ensure compliance.
- iii. The Executive Director discussed a number of trainings that EHB staff had recently provided for various departments.

e. Engagement

- i. The Investigator and Engagement Coordinator discussed the response to outreach efforts regarding the Statement of Financial Interests.
- ii. Staff presented a plan to create educational videos with help from interns over the summer.

V. Old Business
a. None.

VI. New Business
a. None

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VII. Adjournment to Executive Session

- a. At 4:55 p.m., the meeting was adjourned into executive session to begin a training or conference related to the Statement of Financial Interests disclosure.

Minutes prepared by Karl Gassmann and reviewed by Leanne Davis.