



TO: Hon. Michael E. Duggan, Mayor

Hon. Brenda Jones, City Council President
Hon. Mary Sheffield, City Council President Pro Tempore
Hon. Janeé L. Ayers, City Council Member
Hon. James Tate, City Council Member
Hon. Roy McCalister, City Council Member
Hon. Scott Benson, City Council Member
Hon. Andre L. Spivey, City Council Member
Hon. Raquel Castaneda-Lopez, City Council Member
Hon. Gabe Leland, City Council Member

FROM: Ponce De Leon Clay, Chairperson

SUBJECT: 16th Annual Report of the Board of Ethics

DATE: April 23, 2018

The 16th Annual Report includes the period of Board activities beginning July 1, 2016 to December 31, 2017. This Annual Report covers eighteen months, rather than twelve, to align the reporting with Section 2-6-68 of the Ethics Ordinance, which requires calendar year reporting. Prior reports were based on the fiscal year; all future reports will be based upon the calendar year. In accordance with Section 2-6-97 of the Ethics Ordinance (the first "Ordinance"), this Report contains:

1. An analysis of Board activities, including the number of Advisory Opinions requested and issued, and the number of Complaints filed and their disposition, the number of Investigations opened and their conclusions;
2. A compilation of Advisory Opinions issued; and
3. Recommendations, if any, for improvement of the Disclosure Requirements, Standards of Conduct, and the administration and enforcement of the Ordinance.

Board Activities

A. Meetings

During the period of this Report, the Board met frequently; there were seventeen (17) general meetings and twenty-two (22) special meetings. The Board held these meetings to meet its general meeting requirement and to perform the executive director hiring process. The Board opened eleven (11) Requests for Advisory Opinion, eight (8) Complaints, six (6) Investigations, as well as numerous unofficial requests and inquiries. It disposed of eight (8) Request for Advisory Opinions, six (6) Complaints and six (6) Investigations during this period.

B. Advisory Opinions

Requests for Advisory Opinions can only be filed by public servants about their own conduct.

Request for Advisory Opinion #2016-05 was submitted on October 16, 2016 and requested an opinion regarding their department's activities to organize an employee event. The program was designed to "highlight the important connection between learning and achieving organizational results." The organizers planned to solicit "assistance" from various vendors "to give trinkets to employees. . ." In conclusion, the Ordinance bars the receipt of gifts or any other thing of value from City vendors and failed to meet any of the exceptions. The Requesters should refrain from seeking or accepting gifts or donations from vendors.

Request for Advisory Opinion #2016-06 was submitted on December 21, 2016 and requested guidance about accepting a volunteer Board position with a neighboring municipality. The Requester provided information about the current role with the City of Detroit and the municipality's board position. The Board reviewed both the current position held by the public servant and the board position offered to the public servant and found that the two positions as described did not violate the conflict of interest provisions of the Ordinance. The Requester, however, is cautioned about the dissemination of confidential information to third parties.

Request for Advisory Opinion #2017-01 was submitted on January 13, 2017 and was about employment benefits, particularly wage increases and uniforms for the Detroit Police Department. The Board concluded that it is without authority to render an advisory opinion because the conduct targeted by the Requester is not her own nor did it concern matters regulated by the Ethics Ordinance.

Request for Advisory Opinion #2017-02 was submitted on January 25, 2017 and questioned whether a member of a City of Detroit board or agency can accept an appointment to a State of Michigan board that has appellate jurisdiction over certain decisions of the City's board/agency and hold each position concurrently. The Board concluded that the two positions are incompatible under the Section 2-6-65 of the Ordinance and Requester cannot simultaneously hold these two

positions. Requestor was cautioned to hold only one position but not both or be found in violation of Section 2-6-65.

Request for Advisory Opinion #2017-03 was submitted on March 29, 2017 seeking an opinion; the Requestor is an appointee with duties regarding city property taxes and a shareholder in a corporation which held real estate and participated in real estate transactions with and within the City of Detroit. The Requestor sought an opinion as to whether having a position with the company would violate the Ordinance's standards of conduct or be a conflict of interest. The Requestor waived confidentiality. After consideration and discussion of the issues presented, the Board voted to decline to issue an Advisory Opinion pursuant to Section 2-6-104(b)(3) of the Ordinance.

Request for Advisory Opinion #2017-04 was submitted on June 12, 2017 regarding an offer for a speaking engagement at a local university with a \$1,000 honorarium. The Requestor agreed to the presentation but requested an opinion on the honorarium or if the honorarium could be donated to a charity of the Requestor's choice. The Board concluded that because the donor "is not doing business or seeking to do business with the city" the Requestor may accept an honorarium from a donor who does not fall within the restricted categories of donors.

Request for Advisory Opinion #2017-05 was submitted on July 20, 2017. The Requestor sought guidance for an opportunity to travel and sought a compliance letter to participate in an educational seminar in another country. The Board declined to issue an Advisory Opinion pursuant to Section 2-6-104(b)(2) of the Ordinance. The Board directed the Requestor to seek guidance regarding the funding of travel from sources other than the City to its opinion in Request for Advisory Opinion No. 2015-03.

Request for Advisory Opinion #2017-06 was submitted on August 4, 2017 the Requestor, sought an advisory opinion regarding her spouse's ability to apply for a Motor City Match award. In accordance with Sec. 2-6-104(b)(2), the Board of Ethics declined to issue an advisory opinion where the Board determines that the request does not merit review by the Board. However, the Board of Ethics will refer this matter to other authorities for review.

Request for Advisory Opinion #2017-07 was submitted on August 22, 2017. The Requestor sought an advisory opinion to determine whether the use of a Motor City Match award, which was awarded prior to her employment with the city, would violate the city's ethics ordinance. Under the terms of the Motor City Match Program, the Requestor would be ineligible to apply for an award after she became employed by the city. She was not, however, barred at the time of her application and the actual award. There is no language in the Ethics Ordinance barring her use of the award.

The Requestor should be cautioned regarding provisions of the Ethics Ordinance that address divided loyalties. She should be certain not to engage in conduct that might violate the provisions

of Section 2-6-61, 1984 Detroit City Code, neglect of duty; Section 2-6-62, 1984 Detroit City Code, improper use of confidential information; Section 2-6-65, 1984 Detroit City Code, incompatible employment or rendering of service; Section 2-6-66, 1984 Detroit City Code, representation of private business; and Section 2-6-67, 1984 Detroit City Code, self-interested regulation. In addition, she should make certain her outside interests will not violate any applicable department rules or practices. Some city departments require management approval or notice of outside business activities or employment even if they raise no issues of conflict.

Request for Advisory Opinion #2017-08 was submitted on October 11, 2017. The Requestor sought an advisory opinion concerning the ethical implications of his wife's employment by a local nonprofit corporation who planned to do business with the City of Detroit. The Requestor is a public servant as defined by the Ordinance. Section 2-6-3, 1984 Detroit City Code. His spouse is an immediate family member as defined by the Ordinance. The Requestor's disclosure obligations are governed by Section 2-6-31(a)(1). The Board concluded that the public servant must disclose his spouse's relationship. The Requestor should also refrain from participating in the negotiating or approval of grants or any funding with the nonprofit corporation.

Request for Advisory Opinion #2017-09 was submitted on November 27, 2017. The Requestor is a public servant who is an appointee to a City board/agency. The Requestor was seeking guidance on whether his business had a conflict of interest with the work of the city board/agency to which he had been appointed. The Board concluded this matter closed after the public servant withdrew the request.

C. Complaints

Complaints can be filed against any public servant by any person or entity.

Complaint #2016-07, submitted on September 21, 2016, alleged that a public servant who is legal counsel for a City board or commission violated Sec. 2-6-65. Incompatible employment or rendering of services. Pursuant to Section 2-6-115(b)(1)(ii), the Board dismissed the Complaint for failure to allege facts sufficient to constitute a violation.

Complaint #2016-08, submitted on October 19, 2016, alleged that a public servant made a threat against him at a public hearing. Pursuant to Section 2-6-114(a), of the 1984 Detroit City Code, the Board dismissed this Complaint because it is without authority to review matters which occurred more than 182 days prior to the filing date of the Complaint.

Complaint #2017-01, submitted on January 30, 2017, alleged that several public servants restricted his exercise of free speech. Pursuant to Section 2-6-115(b)(1) (i) and (ii), the Board dismissed this matter for lack of jurisdiction and failure to allege facts sufficient to constitute a violation of this article.

Complaint #2017-02, submitted on February 13, 2017, alleged that several public servants and Detroit Land Bank personnel violated the Ethics Ordinance provisions regarding disclosure of

interest in real property, (Section 2-6-31, 1984 Detroit City Code); self-interested regulation, (Section 2-6-67, 1984 Detroit City Code); and improper use of position to influence decisions (Section 2-6-68, 1984 Detroit City Code). On February 15, 2017, the Complainant withdrew her complaint.

Complaint #2017-03, submitted on February 23, 2017, alleged that several public servants violated Section 2-6-61 willful neglect of duty and Section 2-6-67 self-interested regulation. Pursuant to Section 2-6-114(a), 1984 Detroit City Code, the Board dismissed this Complaint because it is without authority to review matters when the alleged violation of the Ordinance occurred more than 182 days prior to the filing of the complaint.

Complaint #2017-04, submitted on March 23, 2017, alleged that a public servants failed to disclose his relationship with a vendor or contractor (Section 2-6-31, 1984 Detroit City Code); used his position to improperly influence a decision pending before city council (Section 2-6-68, 1984 Detroit City Code); and, participated in self-interested regulation (2-6-67, 1984 Detroit City Code). Pursuant to Section 2-6-115(b)(2), of the 1984 Detroit City Code, the Board dismissed this Complaint because no violation of this article occurred.

Complaint #2017-05, submitted on July 13, 2017 by a Motor City Match Program recipient against a public servant. The Complainant alleged abuse of position; stealing business ideas to begin a competing business; abuse of position to obtain favorable terms from vendors. Complainants allegations fell under Sections 2-6-61 (willful or gross neglect of duty); 2-6-62 (improper use of confidential information); 2-6-63 (improper use of city property); 2-6-66 (representation of private entities before city agencies); 2-6-67, (self-interested regulation); 2-6-68 (improper use of official position); and 2-6-70 (improper influence regarding the hiring of immediate family members). The Board concluded this matter dismissed in accordance with Ordinance Sec. 26-115(b) (1) (ii). The complaint does not allege facts sufficient to constitute a violation of this article

Complaint #2017-06 through #2017-11, submitted on November 9, 2017 alleged that a public servants (elected official) did not disclose particular relationships in campaign contributions and expenditures reports. Complainant also alleges violations of the standards of conduct for campaign activities during work hours (Sec. 2-106.7), unduly influencing the decision to fill city positions (Sec. 2-6-70), prohibited acceptance of gifts, gratuities, or things of value (Sec. 2-106.4), participation in city transaction where financial interest present (Sec. 2-6-67), and improper use of position to influence decisions (Sec. 2-6-68). These matters are currently pending.

D. Investigations.

Under Section 2-6-121, the Board of Ethics may self-initiate an investigation against a public servant with a two-thirds vote of members present at the meeting when the topic was first introduced or by the following meeting.

Investigation #2017-01. On July 20, 2017 the Board began an investigation against a public servant based on RAO #2017-03. The notice of charges included alleged conduct under Section 2-

6-66 Representation of Private Person, Business or Organization Prohibited; exceptions. After initial investigation, the Board amended and expanded the investigation to include: Section 2-6-65 Incompatible Employment Or Rendering Services Prohibited, and Section 2-6-96 Public Servants, Contactors, Subcontractors, Vendors And Licensees, And Applications For Certification Of Eligibility For City Contracts Or Programs, To Cooperate With The Board Of Ethics; Obstruction To Result In Penalties; Requirements To Be Incorporated Into City Contacts. This matter is pending the hearing determination.

Investigation #2017-02. At the September 21, 2017 meeting, the Board began an investigation against a public servant with the notice of charges that included alleged conduct under Section 2-6-61. Willful neglect of duty prohibited. The investigation involved missing ethics language from City contracts pursuant to 2-6-96. Pursuant to Section 26-6-126 (2) of the Ethics Ordinance the Board determined that no violation of this article has occurred.

Investigation #2017-03. At the September 21, 2017 meeting, the Board began an investigation against a public servant with notice of charges that included alleged conduct under Sec. 2-6-61. Willful neglect of duty prohibited and Sec. 2-106.3 lobbying registration and reporting. Under Sec. 2-6-125(b)(2) the Board determined that the issuance of a notice of charges is unwarranted, the investigation shall be closed and the public servant, contractor, or vendor who is the subject of an investigation that is initiated by the board shall be notified, in writing, via first class and certified mail, that the investigation has been closed.

Investigation #2017-04. At the October 19, 2017 meeting, the Board began an investigation with notice of charges that included alleged conduct under Sec. 2-6-65. –_Incompatible employment or rendering services prohibited. Under Sec. 26-6-126(2) the Board determined that no violation of this article has occurred.

Investigation #2017-05. At the October 19, 2017 meeting, the Board began an investigation with notice of charges that included alleged conduct under Sec. 2-6-65. – Incompatible employment or rendering services prohibited. Under Sec. 26-6-126(2) the Board determined that no violation of this article has occurred.

Investigation #2017-06. At the October 19, 2017 meeting, the Board began an investigation with notice of charges that included alleged conduct under Section 2-106.5 One Year Post-Employment Prohibition. After the investigation began, the Respondent withdrew from the employment opportunity. As such under 26-6-126(1), the Board closed the investigation based no jurisdiction over the matter.

E. Board Composition.

From July 1, 2016 to February 2017, the members of the Board of Ethics included:

Atty. Alicia J Skillman, Chairperson
Atty. Beth Greenberg Morrow, Vice Chairperson
Rev. Dr. Charles C. Adams
Ponce De Leon Clay
Hon. Norma Dotson-Sales
Hon. Alma G. Stallworth
Robert Watt

Officers were elected at the January 2017 meeting. Members included:

Atty. Beth Greenberg Morrow, Chairperson
Ponce De Leon Clay, Vice Chairperson
Rev. Charles C. Adams
Hon. Norma Dotson-Sales
Atty. Alicia J Skillman
Hon. Alma G. Stallworth
Robert Watt

Board composition changed with the unexpected loss of The Hon. Norma Dotson-Sales, who passed away after a short illness. Additionally, Atty. Alicia Skillman was hired as the Board's Executive Director in May 2017.

On June 28, 2017, the Board sent a letter to the Mayor and City Council expressing an urgent need for each to fill its vacancy expeditiously. An appointment from the Mayor and an appointment from the City Council would bring the Board to a full complement, which is necessary to effectively perform its services to the residents of the City.

New Board Members were appointed in October & November 2017 including:

Atty. Kristin A. Lusn
Freda G. Sampson

Officers were elected at the January 2018 meeting. The current roster is as follows:

Ponce De Leon Clay, Chairperson
Atty. Kristin A. Lusn, Vice Chairperson
Rev. Charles C. Adams
Atty. Beth Greenberg Morrow
Freda G. Sampson
Hon. Alma G. Stallworth
Robert Watt

F. Other Activities.

During this reporting period, the Board held several Special Meetings to locate and appoint an Executive Director which included five (5) interviews conducted in February and March 2017. On April 20, 2017, during a Special Meeting, the Board voted to appoint Atty. Alicia J. Skillman as the Executive Director with a start date of May 8, 2017.

Board staff secured office space at the Butzel Family Center located at 7737 Kercheval, Detroit, MI 48214. Move in was completed in late May 2017. The location supports all needs of the Board including meeting space, parking, public access, and building access for differently-abled individuals.

Additionally, the Board sent a Carry Forward Letter to the Office of the Chief Financial Officer for the 2016-17 FY to ensure funding for its office renovation. Locating and securing office space was the first step in building the infrastructure of the Board of Ethics. Office renovation is ongoing.

G. Recommendations for Improvements of the Board of Ethics and Ethics Ordinance

A. Sec. 2-106.5. - One Year Post-Employment Prohibition.

The status of the one year post-employment prohibition exist without any time limits. As such, a public servant, especially one who have served for several years with the City may have been "in any way involved" with countless projects during their tenure with the City. This prohibition could be quite onerous to a public servant with long term service who must look for employment. With a lengthy limit, it is possible to create the same protection that this prohibition addresses. A limit could be added and enforcement language would still be sound.

While there is a concern with no time limits on the prohibition, the Board believes that the sharing of confidentially information should continue to bar said employment.

H. Investment In Ethics

Ethics training for public servants is a mandate in the Detroit City Charter. And a city that believes in ethics should invests in ethics; therefore, this mandate should be supported financially. The Board of Ethics for the City of Detroit was without full time staff since October 2013. With the hiring of an Executive Director, we have the ability to assess the ethics needs of the City. Also, with full time staff and a full complement of Board members, it is time for the City to look at funding ethics at an appropriate level. There are many new employees and several seasoned employees, as well as new contractors and vendors, who have not received ethics training. Our City is burgeoning on being world class and because of this, we deserve world class ethics training and must invest in electronic delivery of ethics training and the staff to support it.

cc: Hon. Janice Winfrey, City Clerk
All Department Directors
All Agency Heads