

The Ethics Review Board
City of New Orleans

Tuesday, August 17, 2010
2:30 p.m.

Loyola University, Danna Student Center
2nd Floor, Octavia I
New Orleans, Louisiana 70118

Present: Rev. Cornelius Tilton, Chair; Betsy Nalty, Vice-Chair; Rev. Kevin Wildes; Dr. Beverly Wright; Okyeame Haley

Staff Present: Steven Scheckman, General Counsel to ERB

Guests: Edouard Quatrevaux, IG; Suzanne Lacey Wisdom, OIG

Rev. Kevin Wildes called the meeting to order at 2:35 P.M.

Cornelius Tilton moved to approve the minutes from the May 18, 2010, meeting. Okyeame Haley seconded, all were in favor – motion passed.

Election of Officers: Betsy Nalty nominated Cornelius Tilton to be the Chair of the Ethics Review Board. Okyeame Haley seconded, all were in favor – motion passed. Okyeame Haley nominated Betsy Nalty to be the Vice-Chair of the Ethics Review Board. Kevin Wildes seconded, all were in favor – motion passed. Betsy Nalty nominated Okyeame Haley to be the Secretary of the Ethics Review Board. Kevin Wildes seconded, all were in favor – motion passed.

Upon assuming the Chair of the Ethics Review Board Cornelius Tilton thanked Kevin Wildes for his years of service as the Chair of the Ethics Review Board

Inspector General Edouard Quatrevaux advised the Board that since the last meeting the OIG has issued Public Letters concerning: City of New Orleans motorcycle escorts; the Disadvantaged Business Enterprise (DBE) program; a Review of City of New Orleans Professional Services Contract with Disaster Recovery Consultants (DRC). Mr. Quatrevaux then introduced Susanne Lacey Wisdom who made a presentation to the Board concerning proposed changes to the OIG ordinance, City Code Sec. 2-1120. An outline of both the proposed significant and minor changes are attached hereto and incorporated by reference.

Kevin Wildes requested that the following matter he requested be placed on the Agenda be deferred to a subsequent meeting: a “Proposal to Amend the City Code of Ethics regarding: (1) Restricting Contributions from Professional Services Contractors, and (2) Prohibiting False Declarations by City Employees. (Professor David Marcello, The Public Law Center).”

Steven Scheckman reviewed with the Board his memorandum concerning "A Review of Ethics Education Programs From Other Jurisdictions." At the suggestion of the Chair, Cornelius Tilton, this matter was deferred to a subsequent meeting for further consideration in order for the current Members of the Board to review the material including both online and in a DVD format; and in anticipation of new Members being appointed to the Ethics Review Board.

The Board deferred consideration of both hiring a new Executive Director and of a revised job description until the September 14, 2010 meeting.

The Board deferred consideration of the Proposed Revisions to Ethics Board Rules until the September 14, 2010 meeting.

Steven Scheckman reported that HB 791, regarding exceptions to the public records act, and HB 1113, regarding appeals from local ethics boards, passed both the House of Representatives and Senate and was signed by the Governor. He further expressed his gratitude for the hard work and guidance provided by Representative Cedric Richmond in sponsoring these two bills and securing their passage. The General Counsel further directed the Board's attention to HB 670 (permits home rule charter parishes in excess of four hundred thousand to establish local ethics entities) which also passed the House of Representatives and Senate and was signed into law by the Governor.

The Board next discussed the availability and use of the City Council Chambers for future meetings and agreed that after the September meeting (September 14, 2010) it would meet at the City Council Chambers at 2:30 P.M.: October 5, November 2 and December 7, 2010, these dates and times having been previously reserved. The Board further directed the General Counsel to also request that the Board be permitted to utilize the City Council Chambers the 1st Tuesday of each month, in 2011, at 2:30 P.M.

Kevin Wides made a motion to enter into executive session, Betsy Nalty seconded, all were in favor – motion passed.

The Board entered into executive session at 3:35 P.M.

Okyeame Haley made a motion to resume open session, Betsy Nalty seconded, all were in favor – motion passed.

The Board resumed open session at 5:20 P.M.

Personnel Matters:

At the request of the General Counsel and given the current and anticipated workload, Beverly Wright moved that the unclassified position of General Counsel for the Ethics

Review Board be converted from a full-time position to a part-time position, subject to a re-evaluation by the Ethics Review Board if circumstances change in the future, and that effective October 1, 2010 Steven Scheckman, General Counsel will become a part-time employee of the Ethics Review Board and shall work 26.25 hours per week (75% of a full-time/35 hour work-week) and effective November 1, 2010 Steven Scheckman, General Counsel shall work 17.5 hours per week (50% of a full-time/35 hour work-week) and he shall continue in that part-time capacity thereafter until further notice and determination by the Ethics Review Board. Kevin Wildes seconded, all were in favor – motion passed.

Upon reviewing the compensation and evaluating the performance of the Inspector General as required by Section 2-1120(3)(c) of the City Code for the period of time of October 19, 2009-March 31, 2010, and as further provided for in the Memorandum of Understanding by and between the Ethics Review Board and the Office of Inspector General, dated January 11, 2010, Okyeame Haley moved that Inspector General Edouard Quatrevaux receive a 5% raise, if funding is available, with the understanding that due to the current fiscal condition of the city the raise will be deferred from the anniversary date of his hiring (October 19, 2011) to January 1, 2011. Betsy Nalty seconded, all were in favor – motion passed.

There being no further business to discuss, Betsy Nalty moved to adjourn, Okyeame Haley seconded, all were in favor – motion passed.

Meeting adjourned at 5:30 P.M.

Guide to Proposed Changes to OIG Ordinance (City Code §2-1120)

Significant Changes:

- Re: Inspector General certification. The current ordinance requires that the IG must have certification from Association of Inspectors General (AIG) as a Certified Inspector General (CIG) at appointment. Proposed amendment is that certification is required within one year of appointment. This accords with the requirement for the Louisiana State IG in § 49:220.23(A)(3). This provision is currently in §2-1120(3)(h); the proposed revision has it in §2-1120 (3)(b)(5).
- Reducing the restriction on current OIG employees being appointed as Inspector General. Current provision is that OIG employees must have served at least 4 years; proposed change reduces this to 2 years. This provision is currently in §2-1120(3)(h); the proposed revision has it in §2-1120 (3)(d)(1)(a).
- Removes provision for an annual quality review; amends the Peer Review to take place every 2 years vs. every 3 years. This provision is currently in §2-1120(16); there is no change to the paragraph #. The current provision relies on some organizations beyond the control of the City: the AIG and Louisiana Supreme Court. The provision does not name a chairman, and it does not specify when a QAR is to be held saying only that the OIG work products “*shall be subject to annual quality assurance reviews.*”
- §2-1120 (20) Provides that each city contract has a clause which states that the contractor must comply with all authorized requests from the OIG for documents and cooperation, and that failure to cooperate will place the contractor in material breach of the contract. Also provides for penalties should the contractor not comply with authorized requests.

Minor changes:

- Change in Purpose section §2-1120 (2) to slightly clarify purpose.
- Change in Appointment section §2-1120 (3) and Removal section §2-1120 (4) to clarify that the IG is appointed with a majority of the full ERB membership of seven, and may only be removed by a two-thirds majority of the full ERB membership of seven, and to clarify that the ERB approves the IG’s salary on an annual basis (ordinance currently says that the ERB “recommends” the salary).
- Change in Appointment section §2-1120 (3) to allow the appointing authority to consider other relevant factors when evaluating a candidate for IG.
- Change in Appointment section §2-1120 (3) to bolster the non-discrimination statement.
- Change in Appointment section §2-1120 (3)(b)(3)(c)(iv) to make a qualified candidate one with as a licensed attorney with experience (instead of a licensed attorney with expertise).
- Change in Appointment section §2-1120 (3)(b)(3)(b) to make it mandatory rather than

permissive that a qualified candidate possess “demonstrated knowledge, skills, abilities and experience in conducting audits, investigations, inspections, and performance reviews.”

- §2-1120 (3)(d) – restrictions on appointment – extends proscription on being appointed IG to “former or current elected official or employee of governmental entities that receive funds directly or indirectly from the city or its citizens.”
- §2-1120 (5) on Resources is updated to refer to the OIG charter section 9-401(3) on OIG budget.
- Proposed change to (6) on Organization Placement; clarifies (a) that the ERB may provide legal counsel to OIG on request; and (b) that the OIG may conduct investigations for ERB on request. Change is to respect independence of both entities.
- Re: Reporting Results of IG Findings. (a) clarifies that only governmental entities are entitled to Internal Review Copy; (b) Reduces the review period for reports, from 30 *working days* to 30 *days*. This provision is currently in §2-1120(9); the proposed revision has it in §2-1120 (8)(b).
- Re: Reporting Results of IG Findings in §2-1120(9) – new section which outlines reports which will not be publicly issued. Reports of Investigation that find employee misconduct, but not criminal behavior, are administrative in nature and become personnel matters when disciplinary actions are appropriate. Such reports frequently include information from and about others who are not implicated in the misconduct, the release of which could expose sources.
- The current paragraph on authority (11) is proposed to be divided up into 2 sections: one on authority (jurisdiction); the other on duties. The current ordinance mixes these two indiscriminately; the proposed amendment sorts them out and clarifies.
- The proposed revision would amend the section on OIG authority (jurisdiction) to mirror the state statute. As the OIG already has the powers granted by the state law, there is no actual change in the jurisdiction; however, this brings the law into one place. This provision is currently in §2-1120(11); the proposed revision adds it as §2-1120(10)(a).
- Makes explicit that it is permissible for the OIG to issue public letters. The provision which the OIG has been relying on for this authority is currently in §2-1120(11)(h); the proposed revision has it in §2-1120 (11)(a).
- Makes explicit that the OIG has the powers in (12) without any enforcement action necessary.
- §2-1120 (12) – proposed amendment provides that the OIG may recover costs from non-governmental entities when the OIG is forced to issue a subpoena for records to which it is entitled by ordinance; Makes explicit that the OIG has the powers in (12) without any enforcement action necessary.
- The current ordinance has the OIG’s powers split up in to two different sections [(12) and (18)]; the proposed amendment consolidates the OIG’s standard powers into one paragraph (12), and the OIG’s subpoena powers into a separate paragraph (18).
- §2-1120 (21) – changed from *Complaints* by public employees to *Allegations* by public employees.