



ETHICS REVIEW BOARD
CITY OF NEW ORLEANS

Ethics Review Board
City of New Orleans

Wednesday, December 21, 2016
3:30 P.M. – 5:30 P.M.

City Council Chambers
1300 Perdido Street
New Orleans, LA 70112

AGENDA

1. Approval of minutes: October 18, 2016
2. Inspector General's report
3. Independent Police Monitor's report
4. General Counsel's report
5. Training update
6. 2017 ERB meeting dates
7. Discussion and vote on proposed amendments to City of New Orleans Code of Ordinances and ERB Rules to transfer prosecutorial function to Office of the Inspector General. Information, materials, and proposed amendments were posted publicly on December 3, 2016 at <https://www.nolaerb.gov/2016/12/03/erb-to-consider-transfer-of-prosecutorial-function-to-office-of-inspector-general/>
8. Executive session pursuant to Louisiana Revised Statutes 42:17(A) (10) for privileged attorney-client communication regarding construction and application of Code of Ordinances and City Charter.

9. Executive session pursuant to Louisiana Revised Statutes 42:17(A) (1) to discuss the character and professional competence of a person.
10. Executive session pursuant to Louisiana Revised Statutes 42:17(A) (4) to discuss investigative proceedings regarding allegations of misconduct.
11. Appointment of ERB Quality Assurance Committee representative
12. Adjournment

Ethics Review Board

City of New Orleans

October 18, 2016

3:30 P.M. – 5:30 P.M.

City Council Chambers | 1330 Perdido Street | Orleans, Louisiana 70112

Minutes

Present: Mr. Allen Miller, Chair; Mr. James Brown, Vice Chair; Dr. Michael Cowan; Dr. Joe Ricks; Mr. Howard Rodgers

Absent: Rev. Boutin, Dr. Rev. Frampton

Staff: Dane Ciolino, General Counsel

At 3:52 p.m., a quorum being present, the Chair called the meeting to order. On a motion by Mr. Brown seconded by Dr. Cowan, the board unanimously approved the minutes of September 21, 2016.

Inspector General's Report

The Inspector General (IG) Ed Quatrevaux told the board that the City Charter Amendment for the financial and operational independence of the Office of Inspector General (OIG), Office of the Independent Monitor (OIPM) and Ethics Review Board (ERB) will be on the ballot for November 8, 2016.

The IG told the board that the OIG has worked to spread the word regarding the City Charter Amendment by:

- Having an informational link available on the home page of the OIG's website.
- Sending email blasts.
- Posting on social media.
- The IG appeared on FOX 8 to discuss what the Amendment will accomplish.

Assistant Inspector General for Investigations Howard Schwartz reported that the Investigations Division's Statistical accomplishments since January 2016 includes: 57 investigations (22 criminal and 35 administrative). Year-to-date 85 actions have been initiated: 51 complaints (28 criminal and 23 administrative), 19 investigations have been opened (10 criminal and 9 administrative) and 15 administrative actions have been initiated and completed (11 employee suspensions and 4 employee terminations). The year-to-date potential economic loss prevented as a result of the Division's activities is \$9.7 million.

Mr. Schwartz told the board that the OIG has a Memorandum of Understanding with the City of New Orleans' Police Department that allows him to personally investigate complaints against the Chief of Police, the Deputy Superintendents and/or the Commander of the Public Integrity

Bureau (PIB). He reported that there have been 4 complaints year-to-date (3 no violation and 1 is pending).

Mr. Schwartz told the board that the Investigations Division released a public letter on October 11, 2016, identifying an estimate of 8,900 parking citation errors. The errors consisted of the following:

- Parking Enforcement Officers (PEO's) entered incorrect license plate numbers or letters on the citations given.
- PEO's entered incorrect administrative hearing dates.
- PEO's gave citations to fleet vehicles performing delivery services who had stopped for very short durations.

Mr. Schwartz told the board that the errors cost the City \$190,000 in 2015. He also told the board that the City and its parking vendor Duncan Solutions will implement the OIG's recommendations.

In response to Mr. Rodgers, the IG told the board that the ERB would investigate, if any complaints were made against the Independent Police Monitor.

Assistant Inspector General for Inspections & Evaluations Nadiene Van Dyke told the board that the OIG issued a follow-up report on fuel receiving controls in September 2016. She also told the board that the original report found that the City did not have effective controls to verify that it actually receives all of the fuel that is purchased.

Ms. Van Dyke told the board that the City purchases an average of \$3.2 million in fuel annually.

Ms. Van Dyke told the board that the City made significant improvements by implementing 4 of the 5 OIG recommendations. She told the board that the City improved its invoice processes to identify errors and pricing information; the City developed an effective process to monitor and verify deliveries made to the City's 4 automated facilities before issuing payments to vendors and the City began regularly reconciling expected fuel inventory levels to actual fuel inventory levels, which improved the City's ability to identify unusual variances.

Ms. Van Dyke told the board that the OIG's Inspections & Evaluations Division reviews the procurement solicitations the City issues (RFP's and ITB's), as reported in each annual report. She also told the board that the OIG reviews RFP's and ITB's to ensure that they maximize competition and provide potential bidders with sufficient information to develop and submit an informed proposal.

Ms. Van Dyke told the board that the Inspections & Evaluations Division attends Selection Committee Meetings and provides technical assistance to the City. She told the board that the evaluators review high dollar amount and high risk solicitations such as the: Enterprise Resource Planning System, the Curbside Collection of Solid Waste, Council Utilities Consultants, Worker's Compensation Claims Administration and the Fleet Management Information Systems.

The IG told the board that the OIG's performance can be measured in many ways:

- Process measurements are included in the OIG's Strategic Plans and the OIG's Annual Plan reports the goals accomplished.
- In the first 7 years, the OIG saved the City an estimated \$80 million by giving recommendations.
- The savings from the Firefighter Pension saved the City \$8 million each year.
- The Sanitation Contract will save the City \$5 million each year.
- The quantity and quality of reports.
- The Quality Assurance Reviews conducted.
- The OIG's media coverage has increased in both quality and quantity.
- The OIG has National and International coverage for reports, such as the Investigation of the Special Victims Reporting of Rapes.
- The degree in which OIG efforts lead to organizational changes and operational improvements.

The IG told the board that the OIG has produced 24 reports on the New Orleans Police Department (NOPD) over the past 5 years that included recommendations which brought about long lasting and significant changes such as:

- 94 officers were added to patrol who were working in IT or managing public records;
- A City Council Ordinance was passed to reduce police response to false burglar alarms;
- A new statute on out-of-parish warrants was enacted;
- The Mayor's 2017 budget included money for 11 new civilian technicians;
- NOPD redesigned the Sex Crime Unit following the OIG investigation, which is now working effectively.

In response to Mr. Brown, the IG told the board that as an accountability measure, the OIG will conduct annual audits of Sex Crimes.

The IG told the board that the OIG performed a continuous audit for 2-4 years of financial transactions for the Louis Armstrong New Orleans International Airport's Administration and attend all committee and board meetings. He also told the board that the OIG reviews all procurement on the Airport's contracts.

The IG told the board that the OIG identified fraud in the Airport's \$1.2 million landscaping contract; this now costs the City \$150,000. He also told the board that the OIG investigated the Airport's Ground Services Manager and identified that he was not charging the taxi's for decals to enter the Airport; this cost the City an average of \$500,000 annually.

In response to Mr. Miller, the IG told the board that the OIG does not currently have auditors on-site at the airport.

In response to Mr. Miller, the IG told the board that the OIG funded the Auditors who were on-site at the Airport. He also told the board when the plans of the new development of the airport were revealed the OIG was asked to provide oversight for the construction project. There are 2 employees on site at the Airport and the funding is covered by the Airport Board.

The IG told the board that the Sewerage & Water Board's (S&WB) Capital Budget is \$6 billion and is the City's most expensive operation.

The IG told the board that in July 2013 the OIG issued an audit of sanitation fee collections and it found that the S&WB did not collect \$8.5 million of sanitation fees. He also told the board that after the audit, the New Orleans City Council approved an ordinance to turn off citizen's water if there are late sanitation fees.

The IG told the board that in 2016 a follow-up report was issued and revealed that S&WB did not collect \$7 million in sanitation fees. The IG also told the board that the OIG conducted an audit of S&WB payroll in 2015. The OIG found that \$9.4 million was spent on overtime and the internal controls were ignored.

The IG told the board that the OIG reviewed S&WB's take home cars in 2015 and revealed that 48% of the employees resided outside of Orleans Parish.

The IG told the board that the OIG conducted a survey of all entities under the City's jurisdiction to obtain information about potential donations prohibited by the Louisiana Constitution. He also told the board that in prior years S&WB was found to be the largest violator.

The IG told the board that in 2016 the OIG conducted an audit of S&WB fee collections that revealed that 47% of S&WB accounts were delinquent more than 90 days and the collection policies were not being followed.

The IG told the board that the OIG will continue work on the S&WB until management works cooperatively to install new systems & processes and internal controls to prevent wide spread fraud.

The IG told the board that the OIG's planned projects for S&WB next year includes:

- An audit of inventory internal controls;
- An inspection of water quality testing;
- An evaluation of Field Operations.

The IG told the board that the OIG issued a public letter concerning the high cost for the Firefighter's Pension and Disability payments.

In response to Mr. Brown, the IG told the board that he would use the following adjectives to describe the responses that S&WB has given to the OIG over the past 3 years:

- Inadequate
- Defensive
- Uncooperative

In response to Mr. Brown, the IG told the board the S&WB has not accepted the recommendations provided by the OIG and in most cases have disputed the findings. In addition, the IG told the board that this is contrary to other City departments.

Mr. Brown told the board that he encourages the OIG to continue its planned projects on the S&WB.

The IG told the board that the New Orleans Firefighter's Pension & Board of Trustees, subsequent to the OIG public letter, submitted for approval a disability payment that had been backdated more than a year. He also told the board that the approval of having a disability payment backdated had happened many times before. However, the board rejected the motion and it was defeated.

The IG told the board that he had established an Information Branch within the OIG headed by Assistant Inspector General for Inspections & Evaluations Nadiene Van Dyke.

Ms. Van Dyke told the board that in order to spread the word of the OIG's work, the OIG made Community Engagement a priority. She told the board as part of that effort the OIG is working to make their products more visual, accessible and interesting to the public. She also told the board that the OIG has a new website that includes interactive materials, a fresh clean look and each report has its own page that includes all of the ancillary materials to the report itself, such as videos.

Ms. Van Dyke told the board that the OIG plans to continue attending the community and neighborhood meetings, while listening to the public and their concerns about government. She also told the board that the OIG will remind the citizen's that they can assist the OIG and its mission to increase government integrity and improve government performance.

In response to Mr. Brown, the IG told the board that the OIG's Investigations Division uses the FBI Methodology for determining the cumulative savings for the City.

Independent Police Monitor's Report

The Independent Police Monitor (IPM) Susan Hutson reported the Office of the Independent Police Monitor's (OIPM) year-to-date activities for 2016: 6 case monitoring's, 8 case reviews, 36 complaints, 3 commendations, 3 contacts only, 8 criminal case liaisons, 11 disciplinary hearings, 5 critical incidents, 28 mediations and 1 pattern assessment of officers.

The IPM told the board that the OIPM has attended 6 uses of force reviews in 2016.

The IPM told the board that the OIPM is still working to complete the final paperwork for the following 3 positions:

- Complaint Intake Specialist
- Police Monitor Auditor
- Chief Monitor

The IPM told the board that the OIPM has completed their Annual Report for complaints. She told the board that this report includes information on complaint intake, outcomes of complaints for both OIPM & NOPD and complaint analysis.

The IPM told the board that the OIPM met with NOPD in October 2016 to discuss the Annual Report, any issues concerning the Annual Report and OIPM recommendations to NOPD.

The IPM told the board that the OIPM is awaiting NOPD's response to the OIPM Annual Report for complaints.

The IPM told the board that the OIPM is currently drafting its Disciplinary Hearing Report and it will be the next report to be released.

The IPM told the board that the Uses of Force Report will be the OIPM's final report to be released.

The IPM told the board that NOPD has visited with jurisdictions such as Chicago, Ferguson and Baltimore to discuss policing and police oversight.

Dr. Cowan congratulated the IPM on her election to the National Association for Civilian Oversight of Law Enforcement (NACOLE) board.

In response to Dr. Cowan, the IPM told the board that when she became the IPM in 2010 the OIPM had between 20 and 25 critical incidents that included officer involved shootings, in custody deaths and hospitalizations. She also told the board that year-to-date (2016) there have only been 5 critical incidents.

Dr. Ricks congratulated the IPM on her election to the NACOLE board.

In response to Dr. Ricks, the IPM told the board that the Data Analysis Contract has been put on hold temporarily and the OIPM has professional volunteers assisting them with getting work completed.

In response to Mr. Miller, the IPM told the board that offers for the 3 pending positions will take place by the middle of November 2016.

General Counsel's Report

Mr. Dane Ciolino, the ERB's General Counsel advised the board that since the ERB's September meeting no new complaints have been received and 1 complaint remains pending in the monitoring stage.

Mr. Ciolino told the board that he and the OIG General Counsel, Suzanne Lacey have been working together to revise the City Code Section 2-1120 to present a draft ordinance to the board at the December 2016 ERB meeting, that would empower the OIG to perform prosecutorial functions.

Mr. Ciolino told the board, if approved by voters, he is prepared to work with the OIPM with transitioning to operational independence and to also ensure that the ERB plays a meaningful role in oversight of the OIPM.

In response to Dr. Cowan, Mr. Ciolino told the board that he is prepared to meet work together with the IPM on a draft ordinance to propose to the New Orleans City Council.

Agenda Item #5, Training update was skipped.

Dr. Cowan moved acceptance of \$35,000 being allocated from the ERB's 2016 remaining budget to assist with a National Search for the Inspector General's position with Dr. Ricks seconding. The motion passed.

Dr. Ricks moved acceptance to approve the 2017 ERB Budget with a modification to move the \$40,000 allocated for the General Counsel from Salaries to Professional Services with Mr. Brown seconding. The motion passed.

Mr. Miller acknowledged that IG Ed Quatrevaux's communication on October 13, 2016 to be reinstated was received by the ERB.

At 5:07 p.m., Dr. Cowan moved that the meeting adjourn, a second was offered by Mr. Brown. The motion carried unanimously and the meeting adjourned.



ETHICS REVIEW BOARD
CITY OF NEW ORLEANS

2017 ERB Tentative Meeting Schedule:

- January 25, 2017 or January 30, 2017 at 3:30 PM- 5:30 PM (City Council Chambers)
- February 14, 2017 or February 16, 2017 at 3:30 PM- 5:30 PM (City Council Chambers)
- March 22, 2017 or March 29, 2017 at 3:30 PM- 5:30 PM (City Council Chambers)
- April 26, 2017 or April 19, 2017 at 3:30 PM- 5:30 PM (City Council Chambers)
- May 24, 2017 or May 17, 2017 at 3:30 PM- 5:30 PM (City Council Chambers)
- June 28, 2017 or June 1, 2017 at 3:30 PM- 5:30 PM (City Council Chambers)
- July 26, 2017 or July 31, 2017 at 3:30 PM- 5:30 PM (City Council Chambers)
- August 29, 2017 or August 30, 2017 at 3:30 PM- 5:30 PM (City Council Chambers)
- September 21, 2017 or September 13, 2017 at 3:30 PM- 5:30 PM (City Council Chambers)
- October 25, 2017 or October 31, 2017 at 3:30 PM- 5:30 PM (City Council Chambers)
- November 14, 2017 or November 15, 2017 at 3:30 PM- 5:30 PM (Norman Mayer Library)
- December 20, 2017 or December 21, 2017 at 3:30 PM- 5:30 PM (City Council Chambers)