

MILWAUKEE COUNTY ETHICS BOARD

**Thursday October 11, 2007
2:00 P.M.
Courthouse, Room 201-B**

Present: Daniel Hanley, Jr., Chairman
Rebecca Blemberg, Vice Chair
Brother Bob Smith
Reverend Trinette V. McCray
David Carr

Absent: Paul Linn

Also present: Robert Andrews, Deputy Corporation Counsel

1.0 Roll Call

Roll call was taken. There was a quorum. All were present, except for Paul Linn.

2.0 Approval of the Minutes for the Meeting of June 7, 2007

Brother Bob moved, Mr. Carr seconded, and the Board, by vote (5-0), approved the minutes for the meeting of June 7, 2007 as written.

5.0 Status report from County Supervisor Joseph Rice as to the Revisions Proposed by the Ethics Work Study Committee

This item was taken out of order to allow Supervisor Joseph Rice to make his presentation on the progress of the Ethics Work Study Committee of the County Board of Supervisors. Supervisor Rice informed the Board that the Study Committee had met over 10 months and 17 meetings to make revisions to the ethics code. A copy of the Committee's Final Report would be given to the County Executive and the County Board Chairman, as well as to the Ethics Board Members. Thanks were extended to former Ethics Board Member, Hannah Dugan, as well as to Attorney Robert Andrews who did much of the work in drafting code revisions. Supervisor Rice emphasized that the Study Committee saw their work as helping officials to understand the code in order to better instill confidence in the integrity of county government. Some key areas of change were: depoliticizing the governance process by having nominations come from community groups and setting term limits; emphasizing

education and training; establishing a more formalized process for advisory opinions; changing the process for making complaints and investigations and providing for an early settlement option; establishing protocols for initial review by the District Attorney's office; banning certain political activities; changing the Statement of Economics form to include spouses; and increasing staff resources by adding \$200,000 in the budget for a full-time director and assistant. Supervisor Rice emphasized that the committee wanted to create a culture of compliance instead of an enforcement mentality.

Ms. Dugan added that the study committee reviewed all the major processes and the final product was an integrated, comprehensive piece. Other codes were analyzed, so the proposed revision was not just an update of the existing code. With regard to the governing structure, the County Executive would continue to nominate an appointee, but two names would come from the designated community group with the vacancy. The committee removed the restriction on participation in a political group. The revised code required a much higher level of confidentiality and there was a protocol to be followed in the District Attorney's Office. The Board would be allowed to issue formal opinions specific to a topic and not just those arising from a case. A preliminary conference between the complaining party and the accused would take place before the start of an investigation or hearing. A hearing examiner would be appointed and the hearing would take place in private. As for penalties, the Board could order restitution and recommend to the appointing authority to remove, suspend or censure. It would no longer be possible for another unit of government to pay the fine imposed on the individual. Records would now be sealed and were not subject to open records. If the Ethics Board thought that a complaint was brought to harass, they would now be required to say so.

Supervisor Rice added that the Ethics Board would now be the sole interpreter of the code and its applications. The Board would be required to have written policies and procedures. The final report of the Study Committee was expected to be presented to the County Board's Committee on Judiciary on October 18, 2007. Supervisor Rice emphasized the importance of treating the document as a whole and not making piecemeal changes.

Chairman Hanley asked if the Study Committee had considered changing the reporting forms used by the Ethics Board. He wanted the Ethics Board to be designated as having authority to make changes to the forms and to delete the current provision that a form change by the Board be with the concurrence of the Director of Audit and the Office of Corporation Counsel.

Supervisor Rice stated that Supervisor Nyklewicz had proposed using the State reporting form and Ms. Dugan had proposed using the form approved by the Ethics Board which was similar to the City of Milwaukee. The Study Committee had declined to make any recommendations on reporting forms, other than including spouses, because of concerns about time.

Mr. Hanley asked if the Study Committee proposal still kept the "concurrence" section, which Supervisor Rice responded that it did.

Ms. Dugan stated that, in her opinion, the concurrence of the Director of Audit and the Office of Corporation Counsel was a technicality and that they did not have veto power over the

Ethics Board. The provision was meant to keep the Ethics Board from over-stepping into other areas. The Ethics Board had authority to make changes to the form without the approval of the County Board under the proposed changes. Ms. Dugan also favored the City of Milwaukee form over that of the State.

Ms. Blemberg noted that the first step of a complaint was to have it go the District Attorney's Office. She asked if that was a departure from what other boards had done in Wisconsin and elsewhere. Ms. Dugan noted she had not read the State code revisions but that the current proposal was consistent with the City of Milwaukee and the Judiciary Commission.

Chairman Hanley and the Board extended their thanks to Ms. Dugan for her efforts. Supervisor Rice told the Ethics Board that they would be given a copy of the final report with the code revisions, and to feel free to make comments and offer advice.

3.0 Report from the Executive Director

The Chairman then returned to Item 3.0 and the regular order of business:

3.1 Status Report for 2007 Statement of Economic Interests Filers

The Executive Director reported that staff was in the process of going back 2 ½ years to co-sign more than 1,000 Statements of Economic Interests and expected to conclude the review by December 2007.

3.2 Late and Incomplete SEI Filings

The Executive Director reported that there were issues with late filings by two appointed members of Boards. The problem was that the existing code did not provide any penalty for late or incomplete filing. An employee could have their paycheck withheld, but an appointed official was not a county employee and received no paycheck. The Board discussed the matter and directed that the County Executive be informed of those appointed officials who had not submitted Statements of Economic Interests timely or completely.

The Chairman noted that there were some legal issues he wished to address in closed session later in the meeting with regard to appointees.

3.3 Reminder to County Board of Supervisors to Report Lobbyists

The Executive Director stated that the Board had forwarded a letter to the County Board of Supervisors last year regarding the process for reporting lobbyists. Budget time was a time when many supervisors would be approached by lobbyists, so it was suggested to send the reminder to report lobbyists. The Board concurred and directed that the letter of reminder be sent.

4.0 Report of the Chairman

- 4.1 Letter dated July 19, 2007 from Jack Hohrein, Pension Board Secretary, for Dr. Dean Roepke, Chairman of the Pension Board asking the Ethics Board whether Pension Board Members may attend an educational conference offered by JP Morgan Chase, a vendor, and accept the registration fee as a complimentary item without it being a violation of the ethics code.

The Chairman stated that Mr. Hohrein, Pension Board staff, had made a request for an advisory opinion regarding the payment of the registration fee by a Pension Board vendor, J.P. Morgan-Chase, for an educational conference set for October 3-5, 2007. The Chairman had sent a letter of inquiry in July 24, 2007 and had not received a complete response to his questions. A reminder was sent to Mr. Hohrein September 5, 2007. The Chairman, in the interest of time, provided a written reply October 1, 2007, stating that accepting anything of value, including a registration fee as a complimentary item, would be a violation of the Ethics Code. Copies of the correspondence had been provided to Ethics Board members.

The Chairman asked that the matter be taken up in closed session later in the meeting.

- 4.2 Discussion on the Notification of New Vendors about the Requirements of the Ethics Code

The Board was in receipt of contract language from Attorney Mark Grady in the Office of Corporation Counsel which stated that contractors were to be familiar with the Milwaukee County Ethics Code and may not offer anything of value to officers or employees in an attempt to influence their vote, official action or judgment. Mr. Hohrein had indicated that, although there were specific agreements to this effect with many older vendors, the newer vendor contracts did not have specific language about the need to comply with the Ethics Code.

Chairman Hanley stated that he believed any contract with a Pension Board vendor should contain the language suggested by Attorney Grady. Attorney Robert Andrews stated that Milwaukee County's Administrative Code already required that any county contract must contain a provision for compliance with all county ordinances, including the Ethics Code.

Chairman Hanley noted that it appeared that Mr. Hohrein had not been aware of the administrative code, but that he now was.

- 4.3 Review of billing submissions from Ethics Board Independent Counsel, Charles Blumenfield

Chairman Hanley stated that he had received a billing from Independent Counsel Blumenfield which included the amount of \$225 or 1.5 hours of time for a conference with Charles Clausen, who was serving as an advisor to the County Board of Supervisor's Ethics Work Study Committee, chaired by Supervisor Rice. Mr. Clausen had called a number of attorneys who had been involved with the ethics process to solicit their input for suggested changes to the ethics code. Mr. Clausen called Michael Hogan, who had served as hearing

examiner, Attorney Levinson, who had represented Chairman Holloway, and Attorney Blumenfield, who had represented the Ethics Board toward the end of the process.

Chairman Hanley stated that he spoke to Supervisor Rice to see if the County Board would make payment, since they requested the information, and Supervisor Rice indicated he had no funds for this purpose. Mr. Clausen had been paid from funds provided by a private foundation. Chairman Hanley stated that he also called Corporation Counsel Domina, since Attorney Blumenfield had originally submitted his billing to that office, to see if they could make payment. Corporation Counsel Domina indicated that Attorney Blumenfield was now under contract with the Ethics Board. Attorney Domina indicated that the Ethics Board could pay nor not pay the billing or put the matter on the agenda for discussion. Chairman Hanley stated he had opted for the latter. He asked the Board whether or not to pay the \$225 billing for Mr. Clausen and also a \$45 billing for inquires he made about the billing to Attorney Blumenfield.

Chairman Hanley stated neither he nor the Ethics Board were aware of the Clausen interview nor had they directed Attorney Blumenfield to make a response on their behalf. It was not known what suggestions Attorney Blumenfield had provided to Mr. Clausen.

Board Member Carr asked if anyone else had submitted a billing. Chairman Hanley noted that, to the best of his knowledge, none of the other attorneys had billed the County Board of Supervisors for their input, or submitted a billing to the Ethics Board.

Deputy Corporation Counsel Andrews noted that it was beneficial for Mr. Clausen to meet with all the attorneys to get their input and to find out what was right and wrong about the existing process.

Chairman Hanley noted that his concern was that Attorney Blumenfield thought he was acting on behalf of the Ethics Board. Attorney Blumenfield acted in good faith and spent a lot of time with Mr. Clausen.

Mr. Carr said that he, as an attorney, could see where Attorney Blumenfield was coming from, but Attorney Blumenfield was not representing the Ethics Board in the matter as a matter of duty, so no payment should be made.

Rev. McCray thought the Board should make a concession and pay the billing because of the confusion and overlap. However, in the future, it should be clarified that if the Board did not direct or give prior approval for work done, that the Board should not be billed.

Ms. Blemberg asked what the ramifications would be if the Board did not make payment. Chairman Hanley noted that Attorney Blumenfield was acting in good faith and Blumenfield believed it was on behalf of the Board.

Rev. McCray made and Bother Bob seconded, a motion to pay the outstanding billings and to stipulate that in the future, counsel should contact the Chairman prior to providing advice or consultation or the Board would not accept billings.

Mr. Carr did not agree that the billing for \$45 in which the Chairman was inquiring about how the billing came about was appropriate. He thought inquiry might be made to split the bill in half.

The Board then agreed to pay for the Clausen consultation and to not pay for the \$45 inquiry about the billing. Rev. McCray accepted a friendly amendment to her motion to this effect.

MOTION: Rev. McCray moved, Bother Bob seconded, and the Board voted (5-0) on the amendment to pay the outstanding billing of \$225 for the Clausen matter, but not the \$45 billing for the inquiry on the bill, and to stipulate that in the future, Independent Counsel should contact the Chairman prior to providing advice or consultation or the Board would not accept billings. Rev. McCray moved, Bother Bob seconded, and the Board voted (5-0) on the motion as amended.

4.4 Request for a Confidential Advisory and Response dated August 10, 2007 from the Chairman

The Chairman stated that this matter would be discussed in closed session.

4.5 Status Report from the Milwaukee County Clerk regarding Lobbyist Registrations

The Chairman stated that the Board Members were being kept up-to-date on the status of lobbyists who were filing with the County Clerk. The Board was also given a copy of the process for accessing the Ethics Board website and the forms for lobbying to demonstrate the current process. A member of the staff of the Hunger Task Force had sent an e-mail to Supervisor Rice stating the process was not user friendly and should be set up like the State of Wisconsin system.

6.0 Letter dated September 7, 2007 from County Supervisor Richard Nyklewicz Informing the Ethics Board of the Introduction of a Resolution Which Codifies the Contents of the Statement of Economic Interests Forms to be the Same as the State of Wisconsin

Chairman Hanley noted that Supervisor Nyklewicz had submitted a proposed resolution to make the Statement of Economic Interests filed for the county the same as that of the State. The resolution had also been submitted to the Rice Study Committee, but the committee had not had enough time to incorporate this proposal into their proposed revisions. Chairman Hanley indicated that he had prepared a written response to Supervisor Nyklewicz, which letter had been distributed to the Board. Chairman Hanley had asked that the provision that any form revisions provided by the Ethics Board be with the “concurrence of the Director of Audit and the Office of Corporation Counsel,” be removed in order to give the Ethics Board sole authority to make form changes as they saw fit.

7.0 Committee Reports

There were no reports from committees. Ms. Blemberg indicated that the Board would probably want to wait to see what legislation passed before making any further changes to policies and procedures.

MOTION TO GO INTO CLOSED SESSION

Chairman Hanley then asked for a motion to go into closed session under the provisions of Wisconsin Statutes, Section 19.85 (1)(a) and (g) for the purpose of discussing Items 3.2, 4.1, and 4.4.

Motion: Brother Bob moved, Mr. Carr seconded and the Board voted (5-0) to go into closed session to obtain legal advice as to Item 3.2, 4.1, and 4.4.

The Board then met in closed session. At the conclusion of the closed session, the Board reconvened in open session. No further action was taken.

8.0 Adjournment

Chairman Hanley advised the Board that he thought the next meeting would be scheduled for February of 2008. No date or time was set.

Respectfully Submitted,

Susan C. Shields

Susan C. Shields, Executive Director