DENVER BOARD OF ETHICS
MINUTES
MEETING OF FEBRUARY 2, 2022

Chair Joseph G. Michaels called the meeting of the Denver Board of Ethics to order at 9:04 a.m. The Board met virtually through Microsoft Teams, and the public meeting was open to interested parties by joining virtually or by telephone. Present were Board members Joseph G. Michaels, Dianne Criswell, Jane T. Feldman, Doris E. Burd, and Rory McLuster. Also in attendance were Jordan Humphreys, Senior Assistant City Attorney, and Executive Director Lori Weiser.

1. Welcome, introductory remarks, and review of the Agenda.
2. The Draft Minutes of the Board’s January 5, 2022 meeting were moved, seconded, and approved unanimously, by a vote of 5-0.
3. The Board welcomed Ms. Elle Schalow, the City Clerk from the Office of the Clerk and Recorder. Ms. Schalow reported that semi-annual officer disclosures were due on January 31, 2022. There were 13 officers that had not yet filed out of the 93 officers who are required to file the disclosures. On February 10, 2022, a letter will be provided to the City Attorney, outlining such. Ms. Schalow stated that the new MapLight System’s campaign finance portion is launching this month and that the ethics portion will launch in April of 2022.
4. In Case 22-3, the Board welcomed Jim Starling, the EVP and Chief Construction and Infrastructure Officer at Denver International Airport. Following a discussion, the Board determined that pursuant to Section 2-61 of the Denver Code of Ethics, because Mr. Starling owned less than one percent of the total shares of stock in his prior employer’s company, there was no substantial conflict of interest that would require Mr. Starling to sell that stock, even though the city (and the Airport) have contracts with his prior employer. The Board emphasized the importance of observing the six-month cooling off period such that he will not take direct official action with respect to his prior employer as required by Section 2-62 of the Denver Code of Ethics. A motion was made, seconded, and unanimously approved to issue a written advisory opinion consistent with this decision.
5. The Chair, Joseph G. Michaels, noted that the Board was meeting virtually again due to the COVID-19 Pandemic, and specifically, the surge in positivity rate from...
the Omicron Variant. Mr. Michaels stated that the Board will make meeting in-person a goal for the March meeting, but it will continue to monitor the positivity rates and make a decision at that time.

6. In Case 22-6, the Board welcomed Steve Elkins, a Development Project Administrator in the Site Design Neighborhood Development Section from the Denver Department of Community Planning and Development. Following a discussion with Mr. Elkins, the Board of Ethics determined that it would not be a substantial conflict of interest under Section 2-61 of the Denver Code of Ethics for Mr. Elkins to serve as a member of the Planning and Zoning Commission for a neighboring jurisdiction while continuing his employment with the City and County of Denver. Further, the Board advised Mr. Elkins that he would not have to heed the requirements of Section 2-63 of the Denver Code of Ethics, Outside Employment or Business Activity, because he would not be compensated for serving on the Planning and Zoning Commission. A motion was made, seconded, and unanimously approved to issue a written advisory opinion consistent with these conclusions. Mr. Elkins was asked to return to update the Board of Ethics in six months if he is appointed to the Commission.

7. In Case 22-10, the Board welcomed Mikaela Firnhaber, Residential Plan Supervisor for the Denver Department of Community Planning and Development. The Board engaged in discussion with Ms. Firnhaber and determined that she had not violated Section 2-60, Gifts to Officers, Officials, or Employees, by accepting donations from subordinates to a GoFundMe page that was set up for her family following the loss of their home to the Marshall fire. The Board asked that in going forward, Ms. Firnhaber distance herself from being in the position to know who donates to the fund to avoid any challenge of favoritism and to minimize the appearance of impropriety. A motion was made, seconded, and unanimously approved to issue a written advisory opinion consistent with this determination.

8. At 10:17 a.m., the Board took a five-minute recess.

9. At 10:22 a.m., the Board reconvened to discuss proposed amendments to the Board’s Rules of Procedures concerning anonymous complaints. The Board voted unanimously to amend the Rules as proposed.

10. The Board considered the Consent Calendar. No items were called out for individual discussion. It was moved, seconded, and unanimously voted to approve the items on this Consent Calendar as follows:

   - Case 21-56: Motion was unanimously approved to accept the complaint in case number 21-56 and to place the matter on a future executive session agenda for screening and further action, because the allegations, if true, could implicate a violation of Section 2-61 of the Denver Code of Ethics.
   - Case 21-57: Motion was unanimously approved to not accept the complaint in case number 21-57 because it implicates only Section 2-51 of the Denver
Code of Ethics, and it alleges no facts supporting a violation of any other actionable section of the Ethics Code.

- Case 21-60: Motion was unanimously approved to not accept the complaint in case 21-57 because it implicates only Section 2-51 of the Denver Code of Ethics, and it alleges no facts supporting a violation of any other actionable section of the Ethics Code.

- Case 22-4: Motion unanimously approved to not accept the complaint in case number 22-4 because it alleges no facts supporting a violation of any section of the Denver Code of Ethics.

- Case 22-5: Motion unanimously approved to not accept the complaint in case 22-5 because it only implicates Section 2-51 of the Denver Code of Ethics, and it alleges no facts supporting a violation of any other actionable section of the Ethics Code.

- Case 22-9: Motion was unanimously approved to accept the complaint in case number 22-9 and to place the matter on a future executive session agenda for screening and further action, because the allegations, if true, could implicate a violation of Section 2-59 of the Denver Code of Ethics.

11. The Board revisited the Rules of Procedure with respect to anonymous complaints and adopted language to require that all actions taken on a consent calendar be detailed in the meeting minutes.

12. Chair Joseph Michaels spoke about the large number of complaints that have been received by the Board of Ethics over the last few years that fall generally under Section 2-51 of the Denver Code of Ethics, the Legislative Intent Section. There is currently no mechanism under the Denver Ethics Code to address bad conduct by an officer, official, or employee. Other states, such as Illinois and New York, have provisions that address conduct unbecoming an officer, official, or employee, up to, and including, violation of criminal laws. This is something that should be considered and that could benefit the city in terms of promoting ethical behavior. The Board may wish to suggest such a provision to City Council in the future. The Chair asked that the members look at the draft language that has been circulated and to send any edits or comments to the Executive Director for discussion at a future meeting of the Board.

13. The Executive Director stated that most items in the Executive Director’s Report were informational and did not require immediate action.

14. Vice Chair Dianne Criswell discussed the existing requirement that all executive sessions of public bodies be conducted in-person. The consensus of the Board was that it is unfortunate that a body of elected officials, that rarely has cause to use executive sessions, is so skeptical of boards and commissions who go into executive session regularly that it has enacted legislation to require in-person attendance at executive sessions. This puts board and commission members in a position of having
to weigh their service against public health, the health of individual members, and the health of their families. The Board fears that this will have a chilling effect on people who are considering service, and the Board continues to hope that a good cause or public health exception might be considered by City Council.

15. At 11:09 a.m. a motion to adjourn the meeting was made, seconded, and unanimously approved by a vote of 5-0 and the meeting was adjourned.

NOTE: Copies of the written decisions in the cases mentioned above or any other cases may be obtained by contacting the Board’s Executive Director, Lori Weiser–lori.weiser@denvergov.org.

APPROVED BY THE BOARD: March 2, 2022