

Erie County Ethics Board

March 2015 Meeting Minutes

March 2, 2015

8:00 a.m.

MEMBERS PRESENT: Steven Schwartz, Chair
Chris Trapp, Vice-Chair
Kim Bowers, Secretary
Anna Falicov
Rebecca Town

STAFF PRESENT: Tami Burns-DiCioccio, Administrative Staff

MEMBERS EXCUSED: Jeremy Toth, Ex-Officio

1. Meeting called to order at 8:10 a.m.
2. Review and approval of January 2015 minutes:
 - Motion made by Rebecca Town and seconded by Kim Bowers to approve the January minutes as written. All present voted in favor and the motion passed.
3. Website / Email Updates (Bowers/ Burns-DiCioccio):
 - Website has been updated with all of 2014 meeting minutes as well as new section for 2015 meeting minutes and scheduled dates. Tami will be updating with 2014 Ethics Disclosure Form.
 - FOIL Requests Notification: “As a part of its responsibilities, the Board of Ethics requires all Elected Officials, candidates for Elected Office, Appointees and County employees who serve in a policy making capacity to annually fill out an Annual Statement of Financial Disclosure. The Board reviews those statements to identify any potential conflicts of interest and addresses related concerns. If you would like to request a copy of an individual’s form and related correspondence, please submit a request pursuant to New York’s Freedom of Information law by clicking on the “Contact Us” link and send via email.”
 - i. Chris Trapp made a motion to accept the wording for the FOIL Requests Notification, seconded by Rebecca Town. All present voted in favor and the motion passed.
 - ii. Tami will post the FOIL Requests Notification on the County’s website, to be found under the Ethics Board link.
 - Email:
 - i. Tubinis (see Communications below)
 - ii. NY State Office of State Controller– after further communication, the request was withdrawn.
4. Communications:
 - Tubinis Problem with attorney: “... Complaints against attorneys are beyond the scope of the Erie County Board of Ethics that deals with county employees and elected officials. To get the help you need, contact the Attorney Grievance Committee at 845-3630 438 Main St., Suite 800, Buffalo, NY 14202. They should be able to help.” (Email January 21, 2015)
 - Steve Schwartz followed up with a response to Paul Wolf’s concerns (see Addendum below). Additional requests and questions from Mr. Wolf (see below) were discussed.

1) *“Post the financial disclosure forms of all Erie County elected officials on-line for interested members of the public to view without any information being redacted.”*

How was the decision to not post elected official disclosure forms on-line made? Was a board vote taken on the issue on posting elected official disclosure reports on-line? If not can a vote be taken on this important issue and noted for the record?

2) *“Can the Erie County Board of Ethics revise their disclosure form to utilize the more detailed financial categories that the state disclosure form contains?”*

Section 3 of the Erie County Board of Ethics Rules & Regulations states that among the specific powers the board has are: “I. Prescribe forms for the disclosure and registration of information as provided in this chapter;”

Does the Board agree that the disclosure form utilized by the State provides more information to the public?

Does the Board agree that in light of Section 3 paragraph (I), that it does have the authority to prescribe the use of the same disclosure form that New York State elected officials use?

If the Board's position is that legislative authority is required to utilize the state form, is the Board willing to request legislative approval to utilize the state disclosure form?

(From the NYS Site: JCOPE is authorized to request the information sought by the Statement pursuant to Public Officers Law § 73-a and Executive Law § 94. The purpose of the law is to maintain the public's trust and confidence in government through disclosure to aid in the prevention of corruption, favoritism, undue influence and abuses of official position.

With certain limited exceptions, the information provided in a Statement is available for public inspection and copying. Pursuant to changes enacted in PIRA, the categories of value (of disclosed assets) will not be redacted from a Statement. The names of unemancipated children will not be released to the public.)

5. Old Business:

- Review & Revise responses to follow-up requests for information on financial disclosures
 - i. Review follow up letters for wording based on concerns received about the letters; provide more detail within the letter to clarify when no response is required. Anna Falicov will prepare for the May meeting.
- Annual Report to Legislature:
 - i. Reviewed and edited for wording changes to be submitted as Final for presentation to the Legislature. A motion was made by Chris Trapp and seconded by Rebecca Town to accept the amended report. All present voted in favor and the motion passed.
- Rizzo request to attend vendor conference:
 - i. Mr. Rizzo had declined the offer to attend the Grainger Show before receiving our findings.
- Code of Ethics (drafted by Davis): review and compare to our current Code
 - i. Will be deferred to future meeting as time permits.

6. New Business:

- Review of correspondence with Department Heads and those needing to submit disclosures – Tami has received list from all and Disclosures will be sent out by April 1st with return date of May 15th.
- Discussion took place in regards to posting of Disclosure Statements on the County's website; communication will continue at next meeting.

- Anna Falicov was able to have the Board of Ethics added to the March 19th agenda at the County Government Affairs Committee meeting to discuss proposed legislative changes. All on the Board are invited to participate.

7. Next meeting will be May 4, 2015. Motion to adjourn was made by Chris and seconded by Anna. All present voted in favor and the meeting was adjourned at 9:15 a.m.

ADDENDUM: From Steven Schwartz to Paul Wolf January 27, 2015

The Board of Ethics reviewed your emailed concerns (below) at our January 12, 2015 meeting. Our responses are listed below:

1) *"Post the financial disclosure forms of all Erie County elected officials on-line for interested members of the public to view without any information being redacted."*

The Board has collected Annual Statements from over 300 county employees, Board members and elected officials. One exception to disclosure under New York's Freedom of Information Law is an unwarranted invasion of privacy. Our procedure to make the Statements available upon FOIL request is a balance of the need to have the information available to the public in a timely manner and the need to protect individual privacy. We also have limited administrative capacity to keep such online access current. However, we will be adding prominent information on our website that informs interested citizens about procedures to request copies of particular disclosures.

2) *"Can the Erie County Board of Ethics revise their disclosure form to utilize the more detailed financial categories that the state disclosure form contains?"*

The Board is constrained by the statutory language which prescribes only specific information, including the financial categories, in a specified format. Legislative action would be required to change the categories.

3) *"While a local law was passed many years ago regarding an ethics code and the Ethics Board has adopted rules, if an individual looks for the Erie County Code of Ethics or information regarding the Erie County Ethics Board in the Erie County Charter and Code it does not exist. Can steps be taken to correct this?"*

The Rules and Regulations of the Erie County Board of Ethics have always been posted on the website:

<http://www2.erie.gov/ethics/> under "Reference Material- EC Board of Ethics - Rules & Regulations"

4) *"The issue of nepotism has recently surfaced in several situations locally. A City of Buffalo Councilmember recently hired his brother to work in his Council office, in Hamburg a board member hired her daughter and another member hired his wife to work in their legislative offices. Many communities as part of their ethics code have a nepotism policy that prohibits the hiring of family members. Erie County as far as I know does not have a policy against nepotism. Is it possible for such a policy to be adopted in Erie County?"*

As part of our Annual Report to the Legislature, the Board offers suggestions for improving the Erie County Code of Ethics. We have noted that the Town of Lockport incorporated issues of nepotism in their Code. We will include this recommendation in our Annual Report to the Legislature.

Most of the issues you raise have to be directed to the Erie County Legislature. I hope this addresses your concerns.