

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

COMMITTEE ON STANDARDS AND ETHICS

1

CITY COUNCIL  
CITY OF NEW YORK

----- X

TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON STANDARDS AND ETHICS

----- X

March 12, 2015  
Start: 12:09 p.m.  
Recess: 12:38 p.m.

HELD AT: Committee Room - City Hall

B E F O R E:  
ALAN N. MAISEL  
Chairperson

COUNCIL MEMBERS:  
BRAD S. LANDER  
CARLOS MENCHACA  
JULISSA FERRERAS  
VINCENT IGNIZIO

COMMITTEE ON STANDARDS AND ETHICS

2

[gavel]

CHAIRPERSON MAISEL: Okay we're good to go. Alright now really good morning. Welcome to the preliminary budget hearing for Standards and Ethics. My name's Alan Maisel. I'm chairman of the Ethics and Standards Committee of the City Council. And we are joined today by Councilwoman Julissa Ferreras who is chairman of the finance committee and myself. And we have Jason Notunya [sp?] who is the... council, Ken Grace... finance analyst. And I'm going to read an opening statement. First I have to take my glasses off. Good afternoon. Welcome to the fiscal 2016 preliminary budget hearings for the conflicts of interest board. The conflicts of interest board is made up of five members appointed by the mayor with advice and consent of the council. The board is charged by the charter with interpreting, implementing, and enforcing the city's conflicts of interest laws contained in Chapter 68 of the city charter. They also educate and train city employees and public officials on the charter's conflict laws and issuing advisory opinions to perspective current and former city employees. The board's training mandate has been

expanded to training all city employees on the city's conflict of interest laws and rules every two years. The board also is responsible for overseeing the city's financial disclosure program for elected officials in other high level city employees. The fiscal 2016 preliminary budget of 2.2 million dollars for the board increases by 95 thousand dollars from its fiscal 2015 adopted budget. This change is due to a PS increase of 89 thousand dollars and O2PS increase of 6,000 dollars. The total authorized head count for the board remains stable at 22. I look forward to hearing more about how the COIB's work is reflected in the preliminary budget. Today we'll be hearing from, not from Mark Davis who was supposed to be here but unavoidably could not be here. But we're hearing from Wayne Holly from the Conflicts of Interest Board. Good morning.

WAYNE HOLLY: Good morning Mr. Chair and fellow committee member. Good afternoon my name is Wayne Holly and I'm the Deputy Executive Director and general counsel of the conflicts of interest board. To help answer questions you may have I have with me this afternoon to my left Vernie Baquat

[sp?] our Director of Administration and also with me Caroline Miller our Director of Enforcement, Julia Davis our Director of Annual Disclosure and Special Council, Alex Kip our Director of Training and the row behind Derek Yu who is our IT Director. As you indicated Mr. Chair our Executive Director Mark Davis who would normally give this testimony has long been scheduled to be at a three day conference in Hartford and he regrets that he could not be here. Since this is both an oversight and a preliminary budget hearing I will address first the oversight portion and then the budget portion. The board has no written testimony and my oral testimony will be brief, perhaps no more than ten minutes. First as to oversight I've 'distributed a copy of our annual report that several page document that you have. And also two other documents, a, a two page summary of our activities in 2014 and another one page document, a proposed charter amendment. So those are the three things we've distributed today. Our, our budget as the chair mentioned is roughly 2.1 2.2 million and we have a staff of 22. We have four operating units; Legal Advice, Enforcement, Annual Disclosure, and

Training as well as two support units are administrative and IT units. Attorney first to annual, to legal advice. Through our Attorney of the Day Service any public servant can call our office during business hours and speak to an attorney to ask whether their proposed action or interest would violate the conflicts of interest law. Nine times out of 10 we can answer the question immediately. Our eight attorneys on that rotation answered over 43,050 such calls, such calls last year. Our For Legal Advice Attorneys, and in fact roughly three for most of last year issued 480 written pieces of advice or roughly 160 letters per attorney. The median time to get a response was 28 days although when necessary we gave advice much quicker. Second our, our enforcements function last year we opened 488 new enforcement cases and found 95 public servants in violation of the conflicts of interest law. Of those 95 78 resulted in fines and 17 in so called public warning letters. Also we issued 62 confidential warning letters where apparent, where the apparent violation was minor. So the majority of those who violate or appear to violate the law

are not fined but are given warnings. And as we have repeatedly emphasized to public servants the purpose of the conflicts of interest law and the conflicts of interest board is not to punish but to prevent, to promote both the reality and the perception of integrity and city government by preventing conflicts of interest from ever occurring. And indeed the enforcement function's proven to be a highly effective educational and therefore preventive tool. Next our annual disclosure. Among filers who are currently in city service 100 percent have filed their disclosure report. Since we introduced electronic filing several years ago our fines for late filing have decreased significantly which we believe is good news. People are filing on time. Last year we reviewed the report of every active public servant that's over 7,000, maybe closer to 8,000 filers for possible conflicts of interest concerning their non-city jobs. We sent 74 letters to filers concerning their reports. These letters advise them to cure potential conflicts of interest for example by obtaining a board waiver to curia potential... to hold a second city job with a firm doing business

with the city. In 2014 we also had a new question on the report that, that regards immediate family members who were also in city service. And that new information resulted in 223 inquiries to city agencies to ensure that the family members were not in their city jobs in a superior subordinate relationship. Another first for 2014 of volunteer that is unpaid members of policy making city boards and commissions such as the Taxi and Limousine Commission and the Landmarks Preservation Commission. For the first time filed it's very short annual disclosure report as required by state law. In addition for the first time officers and employees of certain city affiliated not-for-profit entities so-called public authorities filed report again as required by state law. In 2014 the annual disclosure unit feel that 2693 requests to review these public reports. The vast majority of those requests not surprisingly came from the media. Finally as to our training function last year our small four person trainings unit conducted 599 live training sessions at 43 city agencies for over 20 thousand public servants including 320 classes at the Department of Education alone. Indeed at, at 11

city agencies our staff train every employee of the agency. In addition for the first time our annual ethic seminar at New York Law School was completely free to all public servants and, and free CLE for all attending city lawyers. But this live training is only a fraction of our trainer's jobs which also involve getting the ethics word out through seminars for ethics liaisons, writing monthly articles for the chief and for our own newsletter, creating a monthly puzzler that has generated a lot of interest, a new handbook for DOE therapists, new and revised FAQs, upgrading our website which contains everything we publish in writing and filming and posting on our website five, five, five minute videos on Chapter 68 topics called ethics express. Last year our website received almost 200 thousand visits and almost a million page views. We also entered the world of social media with our well received daily twitter feed which we call the COIB daily dose. If you don't follow us on Twitter yet you're welcome to. And that's just a bare bones summary of what we did last year with our 22 staff. We can only all, we can do this only because.. and my, my superior I note writes this with, he says do



humility, we have the highest quality staff in city service. Now turning to our budget. Essentially the budget for this year remains unchanged. The collection, the additions rather are for collective bargaining increases. Those are the PS increases the chair noted over which we have no control. And the PS start up, the PS is for startup of voice over internet protocol, our new phone system that'll in the long run be much much cheaper. So my comments are, relate not to the specifics of the budget but to a much more global question. For almost two decades the board has sought an independent budget virtually a loan among city agencies this board has the power to prohibit interest and conduct, or to sanction violations of law by the very officials who set the board's budget. Sometimes at the very time they are setting the board's budget. The board believes this situation is, in and of itself an unseemly conflict of interest that undermines the perception of the public and public servants in the independence of the board. This conflict should be corrected through a charter amendment that removes the Board's budget from the discretion of the public

servants who are subject to the board's jurisdiction. I distributed a copy of that proposed charter amendment, one of the two one pages we distributed. I thank the committee and we're happy to answer any questions.

CHAIRPERSON MAISEL: Thank you very much for your testimony. You already mentioned the video, the ethics express. Could you just elaborate on that?

WAYNE HOLLY: Well I, I could and I think the best person... [cross-talk]

CHAIRPERSON MAISEL: I mean have all the videos been done? Do you increase spending any additional money on it?

WAYNE HOLLY: No I think it's fair to say that we haven't spent a dime to date of taxpayer's money and we don't anticipate needing any more money. Alex can you elaborate on the, on how we put those together and managed to do it with zero dollars?

ALEX KIP: Yeah we actually spent anything on the videos. We had a camera with video capability for a while. The only thing that we spent money on... I I bought lights to make the

1 videos look a little nicer but basically it's done  
2 completely in house, filmed in our conference room.  
3 We use COI people. We film them. We edit them  
4 ourselves on our computers at home because that's  
5 where we have the editing software. So it's been no  
6 additional cost to the, to the agency at all the  
7 producers videos.  
8

9 CHAIRPERSON MAISEL: Just for the record  
10 could you just mention your name again.

11 ALEX KIP: Yeah my name is Alex Kip. I'm  
12 Director of the Training and Education Unit.

13 CHAIRPERSON MAISEL: Okay. By the way do  
14 you do weddings and Bar mitzvahs?

15 ALEX KIP: I have been known... yes.  
16 [cross-talk]

17 CHAIRPERSON MAISEL: Okay that's good.

18 ALEX KIP: Talk to me afterwards.

19 CHAIRPERSON MAISEL: Good to know. I'm  
20 not sure if that's a conflict but it's a good to,  
21 it's good to know.

22 ALEX KIP: ...sure that it's not.

23 CHAIRPERSON MAISEL: Let me just mention  
24 that Carlos Menchaca from Brooklyn is here. Thank  
25 you for being here Councilman Menchaca. And I know

that Councilwoman Ferreras would like to ask a question.

COUNCIL MEMBER FERRERAS: Thank you. And good afternoon. First I just want to put it in the record that we have... although you provide a lot of our clearance for many things the training that you provide for our staff really is immeasurable and my staff in particular always comes back and you can hear them speaking amongst each other and how to make the better staffers. So I really appreciate the training that you provide council members and that you provide the staff because often times you can read something, it's left for interpretation but you're, we've always been a good partner and make a lot of this language in laymen's terms and we can express that not only to our central staff but to our district office have, that often don't have the, kind of the impression or the immense presence of this building because they're all in district offices and a lot of things can happen. But you're able to bring a lot of clarity that's important to us as top level managers and executives or whatever they call us these days. So thank you for that and that has really, what leads

me into the fact that... oversees 77.7 billion dollars in this council. So your budget request is one that we acknowledge is a little smaller than the average budget request that we see but I got to say that I think it also has something to do with efficiencies. And I did... and I know every time you come before us there's this charter revision piece and you know and, and we're looking into the fact that it, how it's directly tied to your funds and how, how ideal does their management so I don't want you to think that you mention it and that we're not paying attention, we are and we're looking into that. But I wanted to specifically talk about coordination with other agencies. In 2014's annual report it indicated a decrease in cases referred to DOI from 2013 to 2014 and it decreased from 193 to 182 in reports from DOI would you be able to share your thoughts on these changes? Is there any impact on your daily operations? And do you have any current statistics to provide us that reflects your work with other agencies?

WAYNE HOLLY: With respect to those two particular that are the numbers regarding

interaction with DOI I'm going to ask our Director of Enforcement Caroline Miller who has joined us to answer your question Councilwoman.

CHAIRPERSON MAISEL: Could you just restate your name again for the record?

CAROLINE MILLER: Yeah sure. My name is Caroline Miller. I'm the Director of Enforcement. In terms of the reports we received from the Department of Investigation and the referrals we make we, we essentially refer every, almost every complaint that we receive except for ones that no one could understand to the Department of Investigation for some purpose. We refer some cases for investigation and some for what we call whatever action in other words that we are not... Because DOI is our statutory investigator, in other words any case that we refer to DOI to investigate they're required by law to investigate for us. So we want to be really thoughtful about what we're asking them to investigate. We want the complaint to make sure that we're, we're sending them on a mission that's worth doing because they have so many other responsibilities. That being said we send them almost everything we have so they can



never involved other than to be alerted to the fact that the board is working on a particular case. And so a, a lot of our enforcement dispositions evolved from those interactions with city agencies.

COUNCIL MEMBER FERRERAS: And I, I want to talk about staffing and I see that your attorneys, you got four presently from, but from January to August you were at only three. Did you see that there was an impact or a change that you ramp up towards, from August to December. What is, speak to me on what happens when you don't have four attorneys but you only have three or you might even up with two. What is that impact to your agency?

WAYNE HOLLY: It's a reality that if you're, at a big agency and say you got 100 staff and you lose one you don't feel the impact if, as you would at a small agency if you've got four attorneys in a unit or eight attorneys in a unit and you lose one that's just the reality. We, we have a, you know the, the, a sophisticated management technique called the faster faster harder harder and I'm kidding but that's, you do, you do what you have to do during those intervals



where there's a turnover. We've been lucky that the turnover has not been high among attorneys at the board although we did lose a wonderful attorney not long ago who ended up at the council legal staff... [cross-talk]

COUNCIL MEMBER FERRERAS: Wow.

WAYNE HOLLY: Our loss, your gain. Mr. Kim is here in the audience.

COUNCIL MEMBER FERRERAS: I know.

WAYNE HOLLY: But, and, and we have... attorneys over time that are losses but the, throughout the staff the turnover has not been heavy. I suppose if we were a tiny staff with heavy turnover that, be a place of chaos although we feel turnover when it occurs. It's not been so heavy that it hasn't been manageable and people that just pithed in and I think that's been the, the, the reason that the, the outputs have managed to be relatively successful across all the units not without some dips that are occasionally attributed to, to... in staff. But if for example you look at the, you look at the numbers on calls that we handled last year where we've... down an attorney for most of the year that number is 15 percent higher

1  
2 than any number we ever handle. So we, we manage to  
3 service the public servants of the city, the former  
4 public servants, the perspective public servants at  
5 least on that hotline in, in numbers that we never  
6 had. And there had been years when we've had full  
7 staff that didn't come close to that number. So  
8 we've, we've I think managed.

9 COUNCIL MEMBER FERRERAS: Okay. And I  
10 just want to, for clarity we have it broken up in  
11 your legal advice team is four attorneys and then  
12 the enforcement is separate attorneys?

13 WAYNE HOLLY: Yes four separate, four  
14 additional.

15 COUNCIL MEMBER FERRERAS: Okay.

16 WAYNE HOLLY: ...unit.

17 COUNCIL MEMBER FERRERAS: Okay great.  
18 Thank you very much for your testimony. Chair.

19 CHAIRPERSON MAISEL: Councilman  
20 Menchaca.

21 COUNCIL MEMBER MENCHACA: Thank you  
22 Cahir Maisel and I also want to thank you as well  
23 for the work that, that we'd been able to utilize  
24 directly from, from your office in the agency. The  
25 report, the annual report talks a little bit about

the electronic training. And I know there was some work that you all did and some agreements in 2014 with DCAS. Can you give us some up, some updates on where that is?

WAYNE HOLLY: And I'm, I'm going to bring Alex Kip our training director back who's been inertly involved in that both with DoITT and with DCAS to give a, to give a fuller answer to that.

COUNCIL MEMBER MENCHACA: Thank you.

ALEX KIP: Hi, Alex Kip again. Yes we were advised. We looked at a number of different options and we were working with DoITT and with OMB to come up with a solution. It's an interesting problem because what we're talking about is infrastructure that has to reach 300 thousand public servants but we're a very small agency. And so that's a huge lift for an agency of two million dollars to build that infrastructure itself. So what DoITT and OMB suggested which was a very good suggestion I think was go through DCAS because they're putting together the infrastructure to have this citywide training portal happen. And so we've created content and we're waiting for DoITT to

1 select... I'm sorry DDCAS to select the appropriate  
2 vendor so that then we can participate in a pilot  
3 program probably around to a thousand, maybe two  
4 thousand employees and these are kind of ideal  
5 employees who have computers and email addresses  
6 and work in offices to see how this would work on a  
7 small scale. And then the plan would be to slowly  
8 scale it up.  
9

10 COUNCIL MEMBER MENCHACA: Do you have a  
11 sense on, on timeline for that?

12 ALEX KIP: As it, as we, I don't know  
13 exactly when DCAS will be ready to move forward  
14 with the appropriate vendor. I know that there was  
15 research being done last week on DCAS's end and I'm  
16 not sure that the vendor has been selected yet. So  
17 I can't tell you how quickly it's going to happen.

18 COUNCIL MEMBER MENCHACA: Well once the  
19 vendor is chosen and you have a sense about who is  
20 coming and to kind of bring you that, that  
21 technology what's your, what's your, do you have a  
22 sense of the other parts of the timeline? The, the  
23 pilot, how long the pilot's going to run, how  
24 you're going to make these choices. You're saying  
25 that you're going to need technology on the ground.

Is there, is there a sense that you can give us about how post...

ALEX KIP: I think once we get the pilot pro, or once we have the infrastructure available to, to run the pilot program the steps on our end are pretty easy because the content's already been created and vetted. It has to be designed in, into the pages but what, you're looking at like a three month process once that, just to get your, iron all the bugs out. And then you're looking at probably another three months to test with these 2,000 people so maybe a six month period once we can, once we know what vendor we're going with and where we can apply this content.

COUNCIL MEMBER MENCHACA: Thank, and thank you for, for indulging me even though there's some unknowns before we even get there. We're, we're just very curious about how, how and when, really when we can get access to this part of the electronic really in large scale for all the other things we're thinking about and, and just increasing capacity at the local level in our district offices and other public employees this would be a huge asset for, for folks to be able to

engage in these kind of questions because we know that that's a barrier for people. And, and we want to make that happen or if you wanted to...

WAYNE HOLLY: I, I'd add to it you know there's a, there's a, there's that tension between doing it quick and doing it right and, and we're impatient we're in, in effect the, the client here and, and we're being served by DoITT and DCAS well. They've got a, they, they've got a bigger picture. There are, there are other training programs whether it's EEO, whether it's... right to know, a variety of others that are required to be given citywide and it made sense for us to piggyback on that. I don't want to use a, a dirty word and mention CityTime but, but CityTime has at least some level works successfully and its rollout when it happened was agency by agency over the course of a few years. So I don't, I don't want to suggest that when this pilot is completed that, that DoITT or DCAS will have the capability to put it in every city agency right away. We will be hoping that they can do it faster and faster. But, but I don't think, I don't think anybody should kid themselves to think that it's going to be an easy task. And,

and, and, and we, we're, we're pleased with the service we get but there are issues like the 9-1-1 call system that might be not the, the top of the radar ahead of, ahead of mandatory ethics training and, and, and that just may be the way it is.

COUNCIL MEMBER MENCHACA: And do you have appropriate funding to, to complete this or...

WAYNE HOLLY: It's just really going to cost us next to nothing. The, the... [cross-talk]

COUNCIL MEMBER MENCHACA: That's a rare, that's a rare statement but I, I... [cross-talk]

WAYNE HOLLY: ...you, you may have missed that the, the budget talk about our five minute videos cost the tax payer zero.

COUNCIL MEMBER MENCHACA: Mm-hmm. And you're doing that internally in house.

WAYNE HOLLY: Internally and, and externally at, at people's homes where they're... editing at home.

COUNCIL MEMBER MENCHACA: Okay.

WAYNE HOLLY: He hasn't charged us for that. So we, we thank him.

COUNCIL MEMBER MENCHACA: Now you're sounding like our district offices there where...

WAYNE HOLLY: We're 22 so we're, we're just a little bit bigger.

COUNCIL MEMBER MENCHACA: I hear you. I hear you. And... well actually let's, let's pause there. I think, I think we kind of got a good, good scope on, on the issues. And or maybe the last thing is issues, if you're anticipated any issues beyond the fact that the rollout will, will happen as it happens, the tension between quick and doing it right. That, that's going to play out in a lot of ways. Are there any other, in, anything else in this hearing that you want to share with us that you're anticipating as far as issues and how you're planning to fix the as, as you, as you really kind of think about the rollout.

WAYNE HOLLY: Where we... For all the electronic training. If things do happen in the rollout we think the council can be helpful we'll certainly return. You could, you could fear the worst but we're going to hope for the best.

COUNCIL MEMBER MENCHACA: Okay great. Thank you.

CHAIRPERSON MAISEL: Thanks. The Councilwoman was mentioning about the lawyers. Are



the lawyers sinuous with the investigators? Are they the same thing or, or the... [cross-talk]

WAYNE HOLLY: No, no... It's a good question is, as, as Ms. Miller indicated DOI is, is mandated by Charter to investigate for the board. The, the board does not have investigators. So what, effectively what, what we the people, that is the charter drafters and those of us who voted for the charter reform in the late 80s when this board was given enforcement power made the judgment that the investigative power would remain at DOI. So we... [cross-talk]

CHAIRPERSON MAISEL: So basically if something comes to your attention the lawyers look at it, wee if there's any kind of validity and then they, then you refer it to... [cross-talk]

WAYNE HOLLY: To DOI and, and they'll come to, with these 180, 190 reports as they do a year. And that, that relationship has worked well, it's been a good cooperative working relationship over now close to 25 years.

CHAIRPERSON MAISEL: Alright thank you. I have, I have one other point. I hadn't actually thought about this in a while. But you mentioned

1 CityTime. Was there, and this is before my time in  
2 the council, I'm not here that long, were there any  
3 issues involving the host CityTime, to me it was a  
4 fiasco, that called its attention to the conflict  
5 of interest board?  
6

7 WAYNE HOLLY: Here I'm a, I'm a little  
8 bit constrained by the, the board's confidentiality  
9 rules that is the, the charter requirement for  
10 confidentiality but there no, nothing public that  
11 the board issued with respect to CityTime as we  
12 fined nobody for any violations and we, there were  
13 no, there was no public advice given. In, in the  
14 main I think it's fair to say that the, the, the  
15 CityTime activity... a criminal activity. So matters  
16 that were viewed as much more serious than the, the  
17 civil fines that our board issued and primarily  
18 involved consultants and, and other private sector  
19 actors and not public servants who were...

20 CHAIRPERSON MAISEL: Right.

21 WAYNE HOLLY: ...who were subject to the  
22 conflicts of interest law.

23 CHAIRPERSON MAISEL: Okay thank you very  
24 much. Anybody else... Councilman anything else you  
25 wanted to add? Well in that case I think all

2 business is concluded and I move to adjourn.

3 Councilman do you want to...

4 COUNCIL MEMBER MENCHACA: So moved and  
5 or seconded.

6 CHAIRPERSON MAISEL: I guess you move  
7 it. I'll second it. Not too many people here to  
8 disagree with us so we're, we are adjourned. Thank  
9 you very much. Thank you. Well I should, I should  
10 do this.

11 [gavel]

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date March 27, 2015