

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON RULES, PRIVILEGES AND ELECTIONS

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June 30, 2009
Start: 11:12 am
Recess: 11:30 am

HELD AT: Council Chambers
City Hall

B E F O R E:
DIANA REYNA
Chairperson

COUNCIL MEMBERS:
Joel Rivera
Maria Baez
Leroy G. Comrie, Jr.
Erik Martin Dilan
Lewis A. Fidler
Robert Jackson
Melinda R. Katz
Larry B. Seabrook
David I. Weprin
Vincent J. Gentile
Inez E. Dickens
Daniel R. Garodnick
James S. Oddo
Christine C. Quinn

A P P E A R A N C E S

Mark Davies
Executive Director
New York City Conflicts of Interest Board

Wayne Hawley
General Counsel
New York City Conflicts of Interest Board

Burton Lehman
Candidate for
New York City Conflicts of Interest Board

2 CHAIRPERSON REYNA: Good morning
3 and welcome to the Committee on Rules, Privileges
4 and Elections. My name is Diana Reyna and I am
5 chair of this committee. Before we begin, I'd
6 like to introduce the other members of this
7 committee who are present with us today. I have
8 Council Member Inez Dickens, Council Member Joel
9 Rivera, Council Member Daniel Garodnick, Council
10 Member Leroy Comrie, and there will be others who
11 will join us. We're running around between
12 committees. We do have two individual from the
13 Conflict of Interest Board that we would like to
14 acknowledge; Mr. Mark Davies, the executive
15 director and Mr. Wayne Hawley, the general
16 counsel. Thank you so much for joining us. Today
17 we have before us one candidate for review. His
18 name is Burton Lehman. Thank you and welcome. A
19 Manhattan resident is a candidate for appointment
20 by the mayor to the Conflicts of Interest Board.
21 If the Council gives its advice and consent, he
22 will replace Kevin Frawley and serve for the
23 remainder of a six-year term expiring on March 31,
24 2012. First, I will be briefly describing the
25 functions of the Conflict of Interest Board. The

2 Conflict of Interest Board is the entity that
3 serves to provide clear guidance to public
4 employees regarding prohibited conduct through
5 training, education and the issuance of advisory
6 opinions. The Board also adopts rules to
7 implement and interpret the provisions of the
8 Conflicts of Interests Code. It reviews and
9 decides on alleged violations of said code with
10 the power to impose fines that can be as high as
11 \$10,000 or include suspension or dismissal from
12 city service where appropriate. The Board also
13 collects and reviews financial disclosure reports.
14 Board members are entitled to receive a per-diem
15 in the amount of \$250 for each calendar day that
16 they perform work for the Board. The chair
17 receives \$275. Welcome, Mr. Lehman. Will you
18 please raise your right hand and be sworn in by
19 counsel?

20 COUNSEL: Do you swear or affirm to
21 tell the truth, the whole truth and nothing but
22 the truth?

23 CHAIRPERSON REYNA: Mr. Lehman, if
24 you can just turn on the mike. Thank you. Please
25 repeat the swearing in. Thank you.

2 COUNSEL: Do you swear or affirm to
3 tell the truth, the whole truth and nothing but
4 the truth?

5 BURTON LEHMAN: Yes, I do.

6 CHAIRPERSON REYNA: Thank you so
7 much. Mr. Lehman, if you have an opening
8 statement or remarks you'd like to share with this
9 committee, now is the time to do so.

10 BURTON LEHMAN: Thank you very
11 much. Good morning. My name is Burton Lehman.
12 I'm honored to be nominated by the Mayor to become
13 of the New York City Conflict of Interest Board,
14 subject to the advice and consent of the Council.
15 I appreciate this opportunity to meet with you and
16 to respond to any questions you may have. I'm a
17 lifelong New Yorker, having been born in Brooklyn,
18 bring a graduate of Columbia College and Columbia
19 Law School and having raised my family here. In
20 fact, two of my sons are here today. The
21 opportunity for public service to my city is
22 particularly meaningful and important to me,
23 especially in a role where I believe my maturity,
24 judgment, experience and commitment can be well
25 utilized. I have practiced law for more than 40

2 years, mostly in the business and real estate
3 areas. I believe I possess a great breadth of
4 experience beyond those areas in many other facets
5 of the law, both as an advisor as well as a
6 practitioner. I believe this breadth of
7 experience will be important in helping me to
8 serve fairly and pragmatically as a member of the
9 Board. Indeed, the Board has a complex task in
10 both interpreting and enforcing the Conflicts of
11 Interest Law and that task must be done in a
12 manner that appreciates the practical challenges
13 of public service, the realities of outside
14 activities and interests of public servants, and
15 most importantly, the overriding goal of ensuring
16 the public's confidence in government is not
17 undermined by conflicts or the appearance of them.
18 In addition to being one of the proud founders and
19 leaders of a prominent New York law firm which
20 employs more than 900 New Yorkers, I have also led
21 and been actively involved in many educational,
22 charitable and other not-for-profit organizations
23 where I believe that my contributions of time and
24 effort have been valuable and important to the
25 life of the city. I reached a point in my life

2 where I'll be able to dedicate a meaningful amount
3 of time to public service. I am hopeful that
4 you'll recommend that the full Council consent to
5 my becoming a member of the Conflict of Interest
6 Board. I'll be pleased to answer any questions
7 that you may have.

8 CHAIRPERSON REYNA: Thank you so
9 much, Mr. Lehman. Welcome to the two sons you
10 have here today. I'd like to recognize Council
11 Member Erik Martin Dilan. Are there any
12 questions? Council Member Garodnick has a
13 question.

14 COUNCIL MEMBER GARODNICK: Thank
15 you, Madam Chair. Mr. Lehman, welcome. I just
16 want to note for those who are here today that you
17 are one of my constituents and I'm very proud of
18 that. While we just met today, I have reviewed
19 your background and find it to be extraordinarily
20 impressive in the philanthropic activities as well
21 as your professional activities. I will be
22 supporting your nomination and asking that it be
23 moved to the full Council. I did have a couple of
24 questions for you just coming from your responses
25 to some of the pre-hearing questions. I noted

2 that perhaps you have not been specifically in
3 municipal ethics law, but you have led
4 organizations where you've been called upon to
5 enforce codes of conduct and ethics and to set and
6 example. I just wanted to see if you could give
7 us just a sense of what that means exactly.

8 BURTON LEHMAN: For quite a long
9 time I was effectively the managing partner of a
10 law firm. As you all know, lawyers are subject to
11 canons of ethics. But even more than the canons
12 of ethics that they have to observe, in terms of
13 representing the institution they've got to do
14 things on the highest moral plane. I was involved
15 many times in being sure that people who didn't
16 observe that standard were deal with properly. I
17 also was the chairman for many years of a college.
18 As such, I had to deal with ethical questions that
19 came down from time to time.

20 COUNCIL MEMBER GARODNICK: You also
21 noted in your responses that you believe that
22 education and sensitization of city employees to
23 Chapter 68 and the rules should be emphasized. I
24 think that you're right to point out the
25 essentially what I would call issue spotting here

2 is critically important for city employees, not
3 necessarily to know the answers to all the
4 questions because these are frequently very
5 difficult to analyze, but rather to know when a
6 question is present. Is there anything that you
7 want to add today as to how you think the Board
8 should be acting to try to promote that sort of
9 sensitization or just general education of city
10 employees?

11 BURTON LEHMAN: Not being involved
12 yet in the actual workings of the Board, it would
13 be presumptuous of me to really comment, except to
14 say that any code of ethics, any code of behavior
15 is effective only if it's understood by the people
16 who are expected to obey it. That strikes me then
17 as requiring that education, training to something
18 that is not simple. I mean the chances of
19 slipping or doing something that violates this law
20 is easy, frankly. For people who aren't
21 sensitized to it, more likely than not, they'll do
22 it without ever having any sense that they're
23 doing that. Having spoken with Mark and Wayne
24 from the Board, I know that they take very
25 seriously the whole aspect of their role of

2 training and sensitizing and making people aware,
3 both the supervisors and then the subordinates.

4 There are these laws that are meant to be enforced
5 and that people should obey them so that we never
6 get to an enforcement issue.

7 COUNCIL MEMBER GARODNICK: Since
8 you mention them, you beat me to the punch because
9 I was going to tell you that Mark Davies and Wayne
10 Hawley are two of the very best and most serious
11 interpreters of some very difficult laws. We
12 thank them for their service to the city.
13 Certainly as you're looking to find ways to
14 improve the Board, these guys know it very well.
15 We wish you all the best of luck in this and I
16 certainly am very enthusiastic to support your
17 nomination today.

18 BURTON LEHMAN: Thank you.

19 CHAIRPERSON REYNA: Thank you,
20 Council Member Garodnick. We've been joined by
21 Council Member David Weprin and Council Member
22 Robert Jackson. I did want to just note amongst
23 the answers given by Mr. Lehman due to questions
24 that were asked as part of this review, I
25 appreciated a comment you had referred to. That

2 was, and I quote, "Once I become involved in the
3 work of the Board and become more familiar with
4 the law and the rules, I will be able to develop
5 opinions on these subjects based on practical
6 perspectives rather than theoretical ones." I do
7 appreciate that particular answer to that question
8 because there are circumstances to which are not
9 taken into consideration as a whole. When we
10 write certain laws or rules that are restrictive
11 or are left up to the interpretation of an
12 individual based on only theoretical, then it
13 doesn't serve its purpose. So, I do want to
14 acknowledge that you had referenced the practical
15 perspective and not only theoretical ones. Are
16 there any other questions or comments for our
17 nomination for Mr. Lehman to the Conflicts of
18 Interest Board? At this time I'd like to call a
19 vote.

20 WILLIAM MARTIN: William Martin,
21 Committee Clerk, roll call the Committee on Rules,
22 Privileges and Elections, M1433. Council Member
23 Reyna?

24 CHAIRPERSON REYNA: I vote aye.

25 WILLIAM MARTIN: Rivera?

2 COUNCIL MEMBER RIVERA: I vote aye.

3 WILLIAM MARTIN: Comrie?

4 COUNCIL MEMBER COMRIE: Aye.

5 WILLIAM MARTIN: Dilan?

6 COUNCIL MEMBER DILAN: Aye.

7 WILLIAM MARTIN: Jackson?

8 COUNCIL MEMBER JACKSON: Aye.

9 WILLIAM MARTIN: Weprin?

10 COUNCIL MEMBER WEPRIN: Aye.

11 WILLIAM MARTIN: Dickens?

12 COUNCIL MEMBER DICKENS: Aye.

13 WILLIAM MARTIN: Garodnick?

14 COUNCIL MEMBER GARODNICK: Aye, and
15 congratulations.

16 WILLIAM MARTIN: Katz?

17 COUNCIL MEMBER KATZ: First of all,
18 I want to apologize. I have a Land Use Committee
19 meeting actually not going on, but trying to go on
20 in the next room. I know that you are recommended
21 by the two gentlemen sitting next to you who we
22 have a longstanding relationship with as well. I
23 wish you good luck on the Conflicts of Interest
24 Board. I vote aye.

25 BURTON LEHMAN: Thank you very

2 much.

3 WILLIAM MARTIN: By a vote of nine
4 in the affirmative, zero in the negative and no
5 abstentions, items adopted. Council Members,
6 please sign the committee report. Thank you.

7 CHAIRPERSON REYNA: We're going to
8 be joined shortly by our Speaker. I want to just
9 thank Mr. Lehman for your enthusiasm working on
10 behalf of the City of New York for the best
11 interests of the City of New York. May you
12 continue all of your work with our foundations,
13 may you continue to be blessed with health and
14 good privileged service to the city. Thank you.

15 BURTON LEHMAN: Thank you very
16 much.

17 [Pause]

18 WILLIAM MARTIN: Council Member
19 Filder?

20 COUNCIL MEMBER FIDLER: Aye.

21 [Pause]

22 WILLIAM MARTIN: Speaker Quinn?

23 SPEAKER QUINN: Aye.

24 [Pause]

25 WILLIAM MARTIN: Council Member

2 Oddo?

3 COUNCIL MEMBER ODDO: Yes.

4 WILLIAM MARTIN: Final vote on the
5 Committee on Rules, Privileges and Elections now
6 stands at 12 in the affirmative, zero in the
7 negative and no abstentions.

8 CHAIRPERSON REYNA: Thank you to
9 our investigative unit, Chuck Davis and Barbara
10 Butler, who are part of our great team of the
11 Rules, Privileges and Elections. Thank you so
12 much. This meeting is adjourned.

13 [Pause]

14 WILLIAM MARTIN: Roll call the
15 Committee on Rules. Council Member Gentile?

16 COUNCIL MEMBER GENTILE: Aye.

17 [Pause]

18 WILLIAM MARTIN: Council Member
19 Baez?

20 COUNCIL MEMBER BAEZ: I vote aye.

21 WILLIAM MARTIN: Final vote on the
22 Committee on Rules now stands at 14 in the
23 affirmative, zero in the negative and no
24 abstentions.

25 [Pause]

1 COMMITTEE ON RULES, PRIVILEGES AND ELECTIONS 15

2 WILLIAM MARTIN: Roll call on the
3 Committee on Rules. Council Member Seabrook?

4 COUNCIL MEMBER SEABROOK: I vote
5 aye.

6 WILLIAM MARTIN: Final vote on the
7 Committee on Rules is now 15 in the affirmative,
8 zero in the negative and no abstentions.

C E R T I F I C A T E

I, Donna Hintze certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

A handwritten signature in cursive script that reads "Donna Hintze".

Signature

Date July 30, 2009