

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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March 12, 2014
Start: 10:55 a.m.
Recess: 1:58 p.m.

HELD AT: Council Chambers
City Hall

B E F O R E:
BRAD S. LANDER
Chairperson

COUNCIL MEMBERS:

Inez E. Dickens
Daniel R. Garodnick
Ydanis A. Rodriguez
Margaret S. Chin
Deborah L. Rose
Jumaane D. Williams
Rafael L. Espinal, Jr.
Mark Levine
Vincent M. Ignizio
Melissa Mark-Viverito

A P P E A R A N C E S (CONTINUED)

2 [background comments]

3 [gavel]

4 CHAIRPERSON LANDER: Good morning;

5 welcome to the New York City Council's Committee on
6 Rules, Privileges and Elections; my name is Brad
7 Lander, chairing the Committee; I'm pleased to be
8 joined this morning by Committee Members Margaret
9 Chin from Manhattan, Debi Rose from Staten Island,
10 Rafael Espinal from Brooklyn, Vinny Ignizio, the
11 Minority Leader from Staten Island, Dan Garodnick
12 from Manhattan, Ydanis Rodriguez from Manhattan, and
13 Mark Levine from Manhattan, who are both frantically
14 signing finance resolutions from earlier. I'll note
15 this morning that the Speaker, who's a member of this
16 committee and also Council Member Inez Dickens are up
17 in Harlem dealing with the explosion that took place
18 earlier this morning, so we'll hold the roll open at
19 the end for them and obviously are praying that
20 everyone, as many people as possible, are okay up
21 there and I'm gonna go ahead and get started with
22 this hearing. This morning I'd also like to
23 acknowledge the Committee's Attorney, Amatullah
24 Booth, and the staff of the Council's Investigative
25 Unit who have been doing a lot of work these days on

2 all the nominations that we're getting, Chuck Davis,
3 our Director of Investigations, as well as Deandra
4 [phonetic] Johnson and Diana Arriaga [phonetic], so
5 thanks to you guys.

6 On March 6, 2014, this Committee held a
7 public hearing regarding the Mayor's candidates for
8 appointment to the New York City Conflicts of
9 Interest Board, Richard Briffault and Fernando
10 Bohorquez, and this morning the Committee, and later
11 today the Council, will vote on whether to give its
12 advice and consent to these candidates.

13 Richard Briffault is a resident of
14 Manhattan and if the Council gives its advice and
15 consent, he'll be appointed to the Board and
16 subsequently designated by the Mayor as Chair,
17 filling the vacant position formerly held by Nicholas
18 Scoppetta, serving a six-year term, which will expire
19 March 31st, 2020.

20 Fernando Bohorquez is a resident of
21 Brooklyn and if the Council gives its advice and
22 consent, he'll be appointed to the Board, succeeding
23 Board Member Burton Lehman and serve on the remainder
24 of that six-year term, which expires March 31st,
25 2018.

2 As we discussed at the hearing, the COIB
3 is the entity that serves to provide clear guidance
4 to public employees regarding the Conflicts of
5 Interest Law, which lays out the type of conduct
6 prohibited by public servants; the Board achieves
7 this through training, education and the issuance and
8 publication of advisory opinions and adopts rules to
9 implement and interpret New York City's Conflict of
10 Interest Law; it reviews and makes decisions on
11 alleged conflicts violations and has the power to
12 impose fines of up to \$25,000 per violation and
13 suspension or dismissal of that city employee when
14 deemed appropriate, and we noted that Council Members
15 are subject to the COIB's decisions and also seek
16 frequent guidance and receive training and education
17 from the Board as well, and that the Board collects
18 and reviews financial disclosure forms for a range of
19 public officials, including the City Council. The
20 Board consists of five members, all appointed by the
21 Mayor; with the advice and consent of the Council and
22 the Mayor designates one of them as the chair. The
23 Charter states that these members should be chosen
24 for their "independence, integrity, civic commitment
25 and high ethical standards." Board members are

2 mandated to meet at least once per month and are
3 prohibited from holding public office, seeking
4 election to any public office, being a public
5 employee in any jurisdiction, holding party political
6 office or appearing as a lobbyist before the City
7 pursuant to Charter Section 2602. Board members are
8 entitled to receive compensation in the amount of
9 \$250 for each calendar day that they perform work for
10 the Board and the Chair is entitled to receive \$275
11 per day of service.

12 At the hearing members asked extensive
13 questions of both Mr. Briffault and Mr. Bohorquez;
14 Mr. Briffault is a professor at Columbia and has an
15 extensive track record on ethics law matters and we
16 had a big book of articles of his. Mr. Bohorquez is
17 a lawyer who's also worked on a range of ethics and
18 conflicts issues. During... and members asked and can
19 speak too if they want, the questions and I think
20 both of them are imminently qualified to serve on the
21 COIB and exhibit the characteristics required in the
22 Charter.

23 An issue was raised at the hearing;
24 several members asked questions regarding Mr.
25 Bohorquez' intent to continue his fundraising

2 activities; he had received a letter from COIB
3 detailing the fact that COIB members are not allowed
4 to fundraise for any City-elected office or on behalf
5 of any City officials running for other offices, but
6 that that leaves some additional loopholes,
7 essentially, especially in cases involving State and
8 Federal elections, which Council Members or other
9 City-elected officials are sometimes candidates in
10 and where the potential might exist if a City
11 official was a candidate in that race for a conflict
12 to arise. So there have been two follow-up matters
13 since that hearing and I just wanna call everyone's
14 attention to. First, Council Members have and we'll
15 provide members of the public, a letter that's being
16 entered into evidence today dated March 11th, 2014
17 from Mr. Bohorquez, and I won't read the whole
18 letter, but I will read the concluding paragraph in
19 which he says, "Therefore, in addition to abiding by
20 the existing fundraising prohibitions and limitations
21 under Chapter 68 of the Charter, I represent that if
22 confirmed to the Board I will make a personal
23 commitment to not solicit contributions or raise
24 funds in any race for State or Federal elective
25 office wherein a current City public servant has

2 announced his or her candidacy for that office," and
3 members and members of the public can look at the
4 letter as well.

5 It was also noted at the hearing and
6 subsequently by Council Members that this is not
7 simply an issue of Mr. Bohorquez, but essentially is
8 a small, but meaningful loophole in the New York City
9 Conflict of Interest Law; at the end of our hearing
10 last week the current Executive Director of the COIB,
11 Mark Davies, noted that in many other jurisdictions
12 the Ethics Law provides a broader prohibition on
13 fundraising for members of the Ethics or Conflicts
14 Board, essentially prohibiting contributions in this
15 type of race or this type of election, as discussed
16 by Mr. Bohorquez in the letter, where a conflict
17 might be seen to arise and so I'm pleased to report
18 that the Council will be moving forward to consider
19 an amendment to the City's Conflicts Law to provide a
20 clearer prohibition on fundraising activities that
21 could present a conflict; we don't have that drafted
22 or in evidence today and there'll be some important
23 questions and of course details to work out about how
24 to describe them and how to do it, but I think it's a
25 good instance where this Committee's hearing

2 identified a loophole and is not only, thanks to Mr.
3 Bohorquez; got some assurance from him, but is going
4 to be able to move forward to actually strengthen the
5 City's Conflicts of Interest Law in a way that will
6 cover all members of the COIB in a forward-going way.
7 So I wanna thank those members of the Committee who
8 asked questions and who followed up and are enabling
9 us to use this opportunity to strengthen the City's
10 Ethics and Conflicts Laws.

11 So with that introduction, let me ask if
12 any members want to make comments before we
13 [background comment] move to a vote? Council Member
14 Garodnick.

15 COUNCIL MEMBER GARODNICK: Thank you very
16 much Mr. Chairman and thank you for the summary of
17 all of the issues before us. I just wanted to take a
18 moment to put the nomination just in the context of
19 the City having previously approved at our last Rules
20 Committee Mark Peters to serve as the Department of
21 Investigations Commissioner, who had served as the
22 Mayor's Treasurer during his campaign and we approved
23 his nomination on the basis of his unique
24 qualifications for that position and despite his
25 obvious close and personal relationship with the

2 Mayor. It is in that context that this Committee
3 evaluated the current candidates and as you noted, we
4 specifically scrutinized Mr. Bohorquez, who also had
5 raised money for the Mayor during the recent
6 campaign, not that there's anything wrong with having
7 done that, of course, but we were concerned that Mr.
8 Bohorquez could continue to actively participate in
9 elections that could involve a City official even
10 after his confirmation, and as you explained in your
11 intro, we were pleased that he wrote to the Conflicts
12 of Interest Board to get clarity on what the rules
13 would be and he was advised that if he were confirmed
14 he could not continue to fundraise for candidates in
15 City elections or for City office-holders running for
16 non-city offices, but what it did allow was for him
17 to fundraise for State and Federal candidates who did
18 not hold City offices even against a New York City
19 official. So while it may be an accurate assessment
20 of the law, now that this issue is squarely before
21 us, I just wanted to go on record saying that I agree
22 strongly that we should close this loophole; no
23 member of the City's Conflicts Board should be
24 allowed to raise funds in a political campaign for or
25 against a City official. Arguably, and we should

2 consider this, no member of the Board should be
3 allowed to raise funds in a political campaign for or
4 against a City official who held office during the
5 time that they served on the Board, and I think that
6 that's something that we should take a look at too.

7 I think to allow any of this creates an unnecessary
8 political atmosphere in the Board and could chill
9 one's willingness to call them to solicit advice in
10 the first instance and we certainly want to encourage
11 people to call the Conflicts of Interest Board. Mr.

12 Bohorquez has voluntarily agreed not to engage in
13 political fundraising where a City candidate is

14 running and he could have gone further and posed
15 further prohibitions on himself, but either way for
16 now, he is the only member of the Conflicts of

17 Interest Board to whom anymore broad restriction now
18 applies. So I agree with you, Mr. Chairman, that we

19 should be taking a very clear and complete look at
20 what the Conflicts Law requires and to make sure that
21 our constituents can count on the Conflicts of

22 Interest Board to remain conflict-free itself and I

23 think that an important aspect of that is restricting
24 political fundraising as a condition for membership.

25 So I will be voting yes on both of the candidates

2 today, but I did want to note that I appreciate your
3 intro too.

4 CHAIRPERSON LANDER: Thank you Council
5 Member. Council Member Ignizio.

6 COUNCIL MEMBER IGNIZIO: Thank you very
7 much. I just wanna echo the comments of my
8 colleague, Council Member Garodnick, and let those
9 that are watching and the Committee Members know how
10 engaged our chairman was on this issue and how he
11 felt it was important that we ensure to all City
12 employees, which is... who are the people that we are
13 speaking to, that the Conflict of Interest Board
14 remain free of any political wranglings or issues
15 relating to it. We need to ensure that this is a
16 Board where the employees of the City of New York go
17 first and to ensure that they're not getting involved
18 in a conflict and I think it starts with the board
19 members being beyond reproach. I think Mr.
20 Bohorquez, from actually voluntarily taking himself
21 out of that situation and putting himself in stronger
22 restrictions than was previously asked of him, I
23 think is a positive step and I think we in this
24 Committee, in this Council ought look to ensure that
25 every board member is held to the highest standard,

2 particularly for this board, and so I thank you for
3 your work in this, Mr. Chairman and the Committee and
4 my colleague, Mr. Garodnick, for staying focused on
5 this important matter.

6 CHAIRPERSON LANDER: Thank you.

7 [background comment]

8 COUNCIL MEMBER RODRIGUEZ: I'd also like
9 to say that I feel that the candidates nominated by
10 the Mayor provided the answers that we needed from
11 all those questions that arose from some of us and I
12 am so proud to say that we will be voting on two
13 excellent candidates for those positions.

14 CHAIRPERSON LANDER: Council Member Chin.

15 COUNCIL MEMBER CHIN: Thank you, Chair.

16 I just wanted to, on the record, that I agree with
17 you, that we need to do something to close this
18 loophole. That was one of my concerns, that he's
19 gonna be... Mr. Bohorquez, was gonna be held to another
20 standard, different from the rest of the Board. So
21 it's good that he wrote the letter, but I think that
22 we really need to look at the law as a whole so that
23 every single board member has to abide by the same
24 standard. So thank you.

2 CHAIRPERSON LANDER: [laughter,
3 background comments] Alright, thanks to all the
4 Council Members; let me just extend the thanks a bit,
5 the Speaker, who's a member of this Committee
6 would've... was hoping to be here and will speak about
7 this I think at the Stated later; I just got a text
8 that the explosion actually looks fairly serious and
9 that there were 16 injuries and four of them serious.
10 So but she's very much supportive of figuring out
11 what we can do to close the loophole and moving
12 forward to consider legislation here and we've begun
13 a dialogue with the Administration; we'll obviously
14 have to develop a piece of legislation and look at
15 all the specifics, but I'm optimistic, thanks to the
16 work of this Committee and good questions, we'll be
17 able to move it forward, whether through this
18 committee or through another committee and under the
19 Speaker's leadership. So thanks to all of you for
20 that and with that I will ask our counsel to call the
21 roll. [background comments]

22 COMMITTEE CLERK: Kevin Penn [phonetic],
23 Committee Clerk, roll call on the Committee on Rules,
24 Privileges and Elections.

25 [background comment]

1 COMMITTEE ON RULES, PRIVILEGES AND ELECTIONS 15

2 CHAIRPERSON LANDER: Oh, sorry. Alright;
3 let me get the language right here. Seeing no
4 further comments, we will now take the vote. We are
5 coupling the vote on the message pursuant to M 0018
6 regarding Mr. Richard Briffault, together with the
7 message pursuant to M 0019 pursuant to Mr. Fernando
8 Bohorquez. Thank you.

9 COMMITTEE CLERK: Kevin Penn, Committee
10 Clerk, roll call on the committee on Rules,
11 Privileges and Elections, M 0018 and M 0019. Council
12 Member Lander.

13 CHAIRPERSON LANDER: Aye on all.

14 COMMITTEE CLERK: Garodnick.

15 COUNCIL MEMBER GARODNICK: Aye.

16 COMMITTEE CLERK: Rodriguez.

17 COUNCIL MEMBER RODRIGUEZ: Aye.

18 COMMITTEE CLERK: Chin.

19 COUNCIL MEMBER CHIN: Aye.

20 COMMITTEE CLERK: Rose.

21 COUNCIL MEMBER ROSE: Aye.

22 COMMITTEE CLERK: Espinal.

23 COUNCIL MEMBER ESPINAL: Aye on all.

24 COMMITTEE CLERK: Levine.

25 COUNCIL MEMBER LEVINE: Aye.

2 COMMITTEE CLERK: Ignizio.

3 COUNCIL MEMBER IGNIZIO: Aye.

4 COMMITTEE CLERK: By a vote of 8 in the
5 affirmative, 0 in the negative; no abstentions, the
6 items have been adopted. Members, please sign the
7 Committee Report.

8 CHAIRPERSON LANDER: And we'll hold the
9 vote open so that the Speaker and Council Member
10 Dickens and Council Member Williams can have a chance
11 to come and vote.

12 Next up for the Rules Committee is the
13 Mayor's nomination for the Chair of the Taxi and
14 Limousine Commission, for which we have not yet set a
15 date, but we look forward to having that hearing in
16 the very near future; working with Council Member
17 Rodriguez on it and with that, this meeting of the
18 Rules Committee's Privilege and Elections is held
19 open for a little while so more members can vote.
20 Thank you very much.

21 [pause]

22 COMMITTEE CLERK: Councilman Williams.

23 COUNCIL MEMBER WILLIAMS: First I wanna
24 say thank you to Mr. Bohorquez, who wrote a letter
25 addressing some of the concerns that we had at the

2 hearing; I think it was very good for him to do so
3 and I feel much better and I'm also thankful for the
4 bill that Council Member Lander, the Chair of the
5 Committee is gonna be putting forth to try to make it
6 even stronger, and I vote yes.

7 COMMITTEE CLERK: Vote stands at 9 in the
8 affirmative.

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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 April 9, 2014