

Ethics Review Board

City of New Orleans

December 21, 2016

3:30 P.M. – 5:30 P.M.

City Council Chambers | 1330 Perdido Street | Orleans, Louisiana 70112

Minutes

Present: Mr. Allen Miller, Chair; Mr. James Brown, Vice Chair; Dr. Michael Cowan; Dr. Joe Ricks; Rev. Boutin

Absent: Mr. Howard Rodgers

Staff: Dane Ciolino, General Counsel

Guest: Toni Hackett Antrum, the Hackett Group, Ethics Education Trainers

At 3:32 p.m., a quorum being present, the Chair called the meeting to order. On a motion by Dr. Cowan seconded by Dr. Ricks, the board unanimously approved the minutes of the October 18, 2016 meeting.

Inspector General's Report

The Inspector General (IG) Ed Quatrevaux told the board that the Office of Inspector General (OIG) has completed important work that will be presented by OIG's leadership:

Assistant Inspector General for Inspections & Evaluations Nadiene Van Dyke told the board that the Inspections & Evaluations Division issued 3 reports since the ERB's October meeting:

1. The Pedestrian Cross Signals Report: Ms. Van Dyke told the board that New Orleans is the most dangerous city in Louisiana for pedestrians. She also told the board that Orleans Parish had more fatalities than any other parish in the state from 2013 to 2015 and in four of the last five years, Orleans Parish had more than twice the rate of pedestrian injuries than in Jefferson Parish or East Baton Rouge Parish.

Ms. Van Dyke told the board that for years the City of New Orleans' Department of Public Works had an unwritten policy that pedestrian crossing signals could only be installed when traffic was stopped in all directions. She also told the board that this policy has not been consistent with National Best Practices and decisions regarding when and where to install pedestrian crossing signals are based on "gut calls."

Ms. Van Dyke told the board that the report's emphasis of pedestrian cross signals being a safety issue, caught the attention of a researcher with the Sinclair Broadcast Group; a broadcasting company that owns scores of stations in mid-sized and smaller cities across the nation. She also told the board that their syndicated news hour program "Full Measure" did a

piece on the report which aired December 5, 2016. Additionally, Ms. Van Dyke told the board that the “Full Measure” used OIG’s data and tables from the evaluation.

2. Property & Casualty Insurance Follow-Up Report: Ms. Van Dyke told the board that the City of New Orleans spends approximately \$2 million per year on insurance premiums to insure its properties; this amount includes property & flood insurance and insurance broker’s services.

Ms. Van Dyke told the board that the original report noted errors in the City’s insured list of properties, insurance purchased for vacant parcels of land, and an out of date insurance commissioner’s certificate, which verified compliance with Federal Emergency Management Agency (FEMA) regulations for contract management and ineffective selection process for a producer of records.

Ms. Van Dyke told the board that City has made significant improvements to the Property & Casualty Insurance program since the OIG’s 2012 evaluation. Of the five OIG recommendations, the city has either accomplished, implemented or made progress on four of the recommendations.

Ms. Van Dyke told the board that the city has received an updated insurance commissioner’s certificate, which verifies their compliance with FEMA regulations, and also insures that the city will actually be eligible for FEMA assistance in an instance of a disaster.

Ms. Van Dyke told the board that the city has refined RFP’s to improve the selection committee’s ability to evaluate and compare proposer qualifications and performance history. She also told the board that the city has corrected formatting problems and completed some missing information on the city’s list of insured properties and developed a risk management plan for the property and casualty program. As a result, the cost of insurance dropped almost \$150,000.

Ms. Van Dyke told the board that the city has not conducted appraisals of its insured properties, which was necessary to improve the accuracy and completeness of the list. She also told the board that the City needs to add objective and measurable performance standards to the insurance broker’s contracts.

3. Municipal Court Funding Report: Ms. Van Dyke told the board that this report is part of the series on the funding of agencies that comprise the justice system. She also told the board that the work-arounds developed to navigate the Court’s ambiguous funding structure led to informal financial practices such as the City charging the court for payroll expenses, and treated this as monies owed to the City which facilitated deficit spending.

Ms. Van Dyke told the board that the informal financial arrangements between the City and the Court reduced the Court’s financial transparency. She also told the board that the Court funding could not be determined without reviewing three sets (the State, the City and the Court) of financial records.

Ms. Van Dyke told the board that making the Court generate a portion of its own revenues which averaged thirty-two percent during the 8 year evaluation, also increased the potential risk of impeding due process rights.

Deputy Inspector General for Audit & Review Erica Smith reported that the Audit Division has issued a French Market Corporation (FMC) Use of Funds Follow-Up Report since the ERB's October meeting. She also told the board that the main finding, was that the FMC in the original report leased a property called Musical Legends Park (MLP) to New Orleans Musical Legends (NOML) was resolved.

Ms. Smith told the board that under the previous terms, the FMC received \$1.00 per year for rental income, while NOML subleased the property to Café Beignet; NOML received \$126,323 for the lease. She also told the board the OIG recommended that the FMC lease directly to Café Beignet.

Ms. Smith told the board that under the new terms, the rental income has increased from \$1.00 per year to \$179,652. She also told the board that the lease term was 5 years, which generated \$900,000 in additional revenues for the FMC.

Ms. Smith told the board that the follow up also found that the FMC obtained Cooperative Endeavor Agreements for any sponsorships they had and this insures that there aren't any donations of public funds given to other entities.

In response to Mr. Brown, the IG told the board that the monies received by NOML went to the owner Dottie Belletto.

In response to Mr. Brown, Ms. Smith told the board that NOML subleased the property to Café Beignet for approximately 10 years.

In response to Mr. Brown, the IG told the board that the NOML used the monies received to pay themselves.

In response to Mr. Brown, Ms. Smith told the board that the NOML is not a part of the new terms.

In response to Mr. Brown, the IG told the board that the sublease between NOML and Café Beignet was legal at that time.

Ms. Smith reported to the board the Audit Division's Accomplishments for 2016: 2 reports, 2 follow-up reports, 2 public letters, 9 findings, 6 recommendations, 7 issues/observations and 21 follow-up findings/observations. She also told the board that the Audit Division has identified an estimate of \$14,381,000 in potential savings.

Ms. Smith told the board that there have been significant reforms within NOPD Sex Crimes and NOPD has implemented 3 policies, which include, detailed guidance when interviewing sex

crime victims, collecting evidence & documenting results of the investigation and supervisory oversight.

Ms. Smith told the board that NOPD had improved in its classifying of rapes: In 2012 there were 212 rapes and in 2014 there were 490 rapes.

Ms. Smith told the board that the Audit Division also issued the Sewerage & Water Board (S&WB) Fee Collection Report which found that the S&WB did not have a detailed aging report, which showed in detail which customers owed money.

Ms. Smith told the board that the S&WB has now implemented a new billing system and a follow-up report will be completed.

Ms. Smith told the board that the Audit Division has also issued a Sanitation Fees Follow-Up Report. In 2014 the Sanitation Department entered into a CEA with the City in order to allow the S&WB to terminate water services for individuals that did not pay their sanitation bills.

Ms. Smith told the board that the Audit Division has issued a Public Letter regarding the Firefighter's Pension & Disability, which was a joint Audit and Investigation that identified \$13.2 million in savings.

In response to Mr. Miller, the IG told the board that monies are available to assist citizens that cannot afford to pay their water bills.

In response to Mr. Ricks, Ms. Smith told the board that the OIG wanted to give the S&WB time to get their new billing system working effective and efficiently before doing a follow-up report. She also told the board that the tentative plan is to issue a follow-up report at the end of 2017.

Assistant Inspector General for Investigations Howard Schwartz told the board that this is the first time that the OIG completed an investigation without having a complaint involved and only having the use of computer analytics. He also told the board that the computer analytics told the OIG that the S&WB employees were stealing large volumes of brass fittings from residential water meters and selling them to scrap yards in New Orleans.

Mr. Schwartz told the board that a form is read to all employees during any administrative investigations, and the employees must answer all of the questions or they could possibly face termination. He also told the board that the form can only be used against the employee administratively not criminally.

Mr. Schwartz told the board that the results of the Criminal Investigation was given to the district Attorney's Office. He also told the board that the District Attorney's Office confirmed that arrest warrants were issued for 10 S&WB employees for theft of metals over \$10,000 and malfeasance in office.

Mr. Schwartz told the board that Deputy Mayor Cedric Grant announced that all 10 employees are no longer employed by S&WB; 5 employees retired, 4 employees resigned and 1 employee retired.

Mr. Schwartz told the board that the OIG knew that the brass was from S&WB because there are only two companies that make the brass fittings and that brass was sold exclusively to the S&WB.

In response to Mr. Brown, Mr. Schwartz told the board that he believes the jump in numbers for 2013 through 2015 was due to more materials being available and word-of-mouth.

In response to Mr. Miller, Mr., Schwartz told the board that there is a current ongoing investigation of the scrap yards.

The IG told the board that the Charter Amendment passed and the OIG used various media to spread the word.

Independent Police Monitor's Report

The Independent Police Monitor (IPM) Susan Hutson reported the Office of the Independent Police Monitor's (OIPM) year-to-date activities for 2016: 41 mediations (reached the grant goal), 11 case monitoring's, 5 case reviews, 56 complaints, 4 commendations, 5 contacts only, 10 criminal case liaisons, 15 disciplinary hearings, 11 critical incidents, and 1 pattern assessment of officers.

The IPM told the board that the OIPM has attended 9 uses of force reviews in 2016.

The IPM told the board that the OIPM has offered former OIG employee Eileen Andrus the Auditor position, and she will start in mid-January. She also told the board that the OIPM has offered Umar Raja the Intake Specialist position, and he will start in February.

The IPM told the board that the OIPM is still working with Civil Service to hire an employee for the Chief Monitor position.

In response to Mr. Miller, the IPM told the board that Ms. Andrus is currently employed with Southern University at New Orleans.

In response to Dr. Cowan, the IPM told the board that she is using the City's hiring process in order to hire the employees for the 3 positions.

The IPM told the board that the 3 Data Analysts Contracts are completed. She also told the board that one of the contracts is with Invisible Institute of Chicago.

The IPM told the board that the Invisible Institute of Chicago has experience with data analyst and data mapping for the Chicago Police Department. She also told the board that the OIPM will also be working with 3 additional local firms.

The IPM told the board that all 3 Community Outreach contracts are completed. She also told the board that the detailed billing will allow her to determine if she will need to hire a full-time employee for 2018.

In response to Rev. Boutin, the IPM told the board that the youth outreach will explain who the OIPM is, what they do and tips on how to handle encounters with the police.

The IPM told the board that the OIPM started the RFP process for hiring a lawyer.

The IPM told the board that Part III of the 2015 Complaint Intake Annual Report is completed.

The IPM told the board that she met with the Public Integrity Bureau (PIB) and the Compliance Department to get their feedback. She also told the board that this information will conclude Disciplinary Hearings, Part IV and Use of Force, Part V of the OIPM 2015 Annual Report.

In response to Mr. Brown, the IPM told the board that her goal is to publish the last of the Annual Reports by the end of 2016.

In response to Mr. Miller, the IPM told the board that the OIPM's 2016 Annual Report will be available by March 2017.

The IPM told the board that the delay in receiving the OIPM's 2015 Annual Report was due to NOPD's certified numbers not being available and the OIPM not having access to PIB's data for complaints.

In response to Mr. Brown, the IPM told the board that the reasons and cause of the delay in OIPM's 2015 Annual Report will not reoccur.

The IPM told the board that Ms. Andrus will complete the report goals and risk management strategies for the OIPM.

The IPM told the board that she met with NOPD Chief Michael Harrison and Deputy Chief Arlinda Westbrook to discuss the OIPM having direct and in office access for 2017 to: NOPD's Body Worn Camera System, NOPD's Electronic Reporting System, NOPD's Intranet- that stores the most up-to-date policies & procedures and NOPD's New Early Intervention System.

In response to Dr. Cowan, the IPM told the board that an ordinance for operational independence has not currently been put into place for the OIPM and she was also advised by the New Orleans City Council that an ordinance could be put into place after the November 8, 2016 vote.

In response to Dr. Cowan, the IPM told the board that the OIPM expects to have the same oversight and accountability mechanisms in place as the OIG.

Mr. Miller told the board that Mr. Dane Ciolino, the ERB's General Counsel is prepared to assist the OIPM with transitioning.

Mr. Ciolino told the board that he is prepared to work with the OIPM with transitioning to operational independence and to also ensure that the ERB plays a meaningful role in oversight of the OIPM.

General Counsel's Report

Mr. Ciolino advised the board that his items to discuss were for Executive Session.

Ethics Education Report

Ms. Toni Hackett Antrum of the Hackett Group told the board that since the ERB's September meeting the Hackett Group has conducted ethics education training with Tax Collectors & Auditors within the Finance Division in September 2016 and October 2016.

Ms. Hackett Antrum told the board that she discussed focusing on Boards & Commissions in 2017 with the Education Committee. She also told the board that a few of the boards discussed were the French Market Board, the Public Belt Railroad and the S&WB Board.

Ms. Hackett Antrum told the board that the Hackett Group will continue to conduct ethics education training in 2017 with the Public Works Department, S&WB, the City Council & staff and Traffic Court.

Mr. Miller and the board agreed to the following meeting dates in 2017 and the remaining dates will be selected at the ERB's February meeting:

- Monday, January 30, 2017 at 3:30 P.M.
- Tuesday, February 14, 2017 at 4:00 P.M.

Mr. Miller moved acceptance to approve the proposed amendments to City of New Orleans Code of Ordinances and ERB Rules to transfer prosecutorial function to the Office of the Inspector General with Rev. Boutin seconding. The motion passed.

The chair called for a vote to adjourn to executive session pursuant to Louisiana Revised Statute sections 42:17(A) (10) for privileged attorney-client communication regarding construction and application of Code of Ordinances and City Charter, 42:17(A) (1) to discuss the character and professional competence of a person and 42:17(A) (4) to discuss investigative proceedings regarding allegations of misconduct. Mr. Brown moved and a second was offered by Dr. Ricks at 4:34 P.M.

The board, by an affirmative vote of all member present, held an executive session.

At the conclusion of the executive session, the board reconvened its public meeting. Mr. Brown moved and a second was offered by Dr. Ricks.

Mr. Miller revisited agenda item #6 and the board agreed to the following meeting dates in 2017:

- Monday, January 30, 2017 at 3:30 P.M. (City Council Chambers)
- Tuesday, February 14, 2017 at 4:00 P.M. (City Council Chambers)

- Wednesday, March 22, 2017 at 3:30 P.M. (City Council Chambers)
- Wednesday, April 19, 2017 at 3:30 P.M. (City Council Chambers)
- Wednesday, May 17, 2017 at 3:30 P.M. (City Council Chambers)
- Thursday, June 1, 2017 at 3:30 P.M. (City Council Chambers)
- Wednesday, July 26, 2017 at 3:30 P.M. (City Council Chambers)
- Tuesday, August 29, 2017 at 3:30 P.M. (City Council Chambers)
- Wednesday, September 13, 2017 at 3:30 P.M. (City Council Chambers)
- Wednesday, October 25, 2017 at 3:30 P.M. (City Council Chambers)
- Tuesday, November 14, 2017 at 3:30 P.M. (Norman Mayer Library)
- Wednesday, December 20, 2017 at 3:30 P.M. (City Council Chambers)

Dr. Ricks moved to adopt the first dates in each month presented on the 2017 ERB Tentative Meeting Schedule with Mr. Brown seconding. The motion passed.

Dr. Ricks told the board that Wayne Woods who served on the ERB Quality Assurance Committee, recommended that the ERB appoints someone who has served on the Committee previously, due to the amount of pre-work that is required and to maintain consistency.

Mr. Miller told the board that the following are interested and extremely qualified for the appointment of the ERB Quality Assurance Committee:

1. Wayne Woods
2. Judge Stanwood Duval
3. Coleman Ridley
4. Mr. Zander

Mr. Brown told the board that he agrees that all of the interested candidates are well qualified and that Judge Duval has a reputation of being a very hard worker.

Rev. Boutin thanks all of the candidates and told the board that he agrees that Judge Duval would be a great candidate with Dr. Cowan seconding.

Dr. Ricks told the board that he agrees that Judge Duval would be a great candidate but would like the board to keep in mind that maintaining consistency is important as well with Dr. Cowan seconding.

Dr. Cowan told the board that the ERB should actively work on members serving at least 2 years in order to maintain consistency.

Mr. Brown moved to appoint Judge Stanwood Duval as the ERB Quality Assurance Committee representative with Dr. Cowan seconding. The motion passed.

At 5:41 p.m., Dr. Cowan moved that the meeting adjourn, a second was offered by Mr. Brown. The motion carried unanimously and the meeting adjourned.