

COUNCIL OF THE CITY OF PHILADELPHIA
COMMITTEE OF THE WHOLE

Room 400, City Hall
Philadelphia, Pennsylvania
Thursday, December 6, 2012
9:30 a.m.

PRESENT:

COUNCIL PRESIDENT DARRELL L. CLARKE
COUNCILWOMAN CINDY BASS
COUNCILWOMAN JANNIE BLACKWELL
COUNCILMAN W. WILSON GOODE, JR.
COUNCILMAN BILL GREEN
COUNCILMAN WILLIAM K. GREENLEE
COUNCILMAN BOBBY HENON
COUNCILMAN KENYATTA JOHNSON
COUNCILMAN CURTIS JONES, JR.
COUNCILMAN DENNIS O'BRIEN
COUNCILMAN DAVID OH
COUNCILWOMAN MARIA D. QUINONES-SANCHEZ
COUNCILWOMAN BLONDELL REYNOLDS BROWN
COUNCILMAN MARK SQUILLA
COUNCILWOMAN MARIAN B. TASCO

RESOLUTION 120862 - Resolution confirming the re-appointment of Judge Phyllis W. Beck as a member of the Board of Ethics...

RESOLUTION 120980 - Resolution confirming the appointment of Brian J. McCormick as a member of the Board of Ethics...

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COUNCIL PRESIDENT CLARKE: Good morning. This is the Committee of the Whole, the City Council of Philadelphia. We'll be holding a public hearing to hear Resolutions 120862 and 120980.

Mr. Christmas, would you please read the titles of the resolutions.

THE CLERK: Resolution 120862, confirming the re-appointment of Judge Phyllis W. Beck as a member of the Board of Ethics, to serve in the term ending November 16, 2017.

Resolution 120980, confirming the appointment of Brian J. McCormick as a member of the Board of Ethics, to serve in the term ending November 16, 2016.

COUNCIL PRESIDENT CLARKE:
Thank you.

Is the Administration going to testify or is it simply -- just going to have the witnesses come up? All right.
Thank you.

(Witness approached witness table.)

1 12/6/12 - WHOLE - RES. 120862 & 120980

2 COUNCIL PRESIDENT CLARKE: Good
3 morning.

4 MR. McCORMICK: Good morning.

5 COUNCIL PRESIDENT CLARKE: For
6 the record, Ms. Beck could not be
7 available, but she has submitted her
8 testimony. She is a current member, so I
9 think most of us already know her.

10 Good morning. Please state
11 your name for the record.

12 MR. McCORMICK: Good morning.
13 My name is Brian Joseph McCormick, Jr.

14 COUNCIL PRESIDENT CLARKE:
15 Thank you. Do you have any testimony?

16 MR. McCORMICK: I do, Council
17 President, and we submitted written
18 testimony. I'll read the written
19 testimony.

20 COUNCIL PRESIDENT CLARKE: If
21 you want to summarize it, that's fine.

22 MR. McCORMICK: Good morning,
23 Council President Clarke and members of
24 City Council. I am Brian J. McCormick,
25 Jr., and I come before you as a nominee

1 12/6/12 - WHOLE - RES. 120862 & 120980
2 of Mayor Nutter for the Philadelphia
3 Board of Ethics.

4 I am honored to be a nominee
5 for the Board of Ethics and welcome the
6 opportunity to testify before City
7 Council in connection with my
8 qualifications and motivation to serve in
9 this position. I consider the prospect
10 of serving my city in the role of member
11 of the Board an endeavor of the high
12 calling, privilege, and public trust, and
13 I am grateful for the Mayor's nomination
14 and believe I can serve the people of
15 Philadelphia effectively as a member of
16 the Board of Ethics.

17 I have practiced law for the
18 past 15 years, first in Montgomery County
19 and for the last 12 years in Center City.
20 Before attending law school, I attended
21 the University of Richmond in Virginia.
22 After college, I returned to Philadelphia
23 and became employed by the Federal Bureau
24 of Investigation in its Philadelphia
25 field office. I also worked part time as

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2 a newspaper reporter for the Times Herald
3 in Norristown.

4 In 2000, I joined the law firm
5 of what was then Buchanan Ingersoll and
6 is now Buchanan Ingersoll and Rooney in
7 its Philadelphia office. At Buchanan
8 Ingersoll, I focused on business
9 litigation, with a concentration in
10 healthcare law and eventually became a
11 partner in that firm. In 2000, I joined
12 the law firm of Sheller, P.C. where I
13 became a Managing Partner and practiced
14 in the area of personal injury and
15 whistleblower law. As a trial lawyer at
16 Sheller, I have recently represented
17 several whistleblowers who have helped
18 federal and state governments recover
19 hundreds of millions of dollars lost as a
20 result of Medicare and Medicaid fraud.

21 I previously served on the
22 Board of Directors for the Committee of
23 Seventy. During that time, I chaired
24 Seventy's Elections Subcommittee, which
25 addresses, among other things, issues

1 12/6/12 - WHOLE - RES. 120862 & 120980
2 concerning Philadelphia's campaign
3 finance laws. I recently resigned from
4 Seventy's Board.

5 In September of 2008, I was
6 Seventy's appointee to Mayor Nutter's
7 Advisory Task Force on Ethics and
8 Campaign Finance Reform. During my time
9 on the Task Force, I met with several of
10 you to discuss the current state of the
11 campaign finance and ethics rules and
12 regulations, and also spent a
13 considerable amount of time examining the
14 ethics and campaign finance laws of other
15 cities comparable to Philadelphia.

16 I testified in front of this
17 body on behalf of the Task Force in March
18 of 2010, and then, as now, I was honored
19 to be appearing before you on matters of
20 such great importance.

21 I have volunteered to serve on
22 the Ethics Board because I am an involved
23 citizen and proud of the City of
24 Philadelphia and would like to help the
25 City maintain an honest and efficient

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2 government. I have no doubt that the
3 overwhelming majority of City officials
4 and employees are seeking to serve the
5 public interest in an honorable way.

6 Further, I am dedicated to the
7 well-being and continuous improvement of
8 the City as a whole. My friends and
9 colleagues tell me that I am fearless of
10 complexity; that I understand the value
11 of relationships, collaborations, and
12 partnerships; and that I am effective at
13 it across diverse sectors.

14 Should the City Council see fit
15 to approve my nomination, I promise to
16 you that I will do all I can to advance
17 the best interests of all the public
18 servants, families, and neighborhoods of
19 Philadelphia with my fellow Board
20 members.

21 In closing, I would like to
22 thank Mayor Nutter and City Council for
23 considering me to serve on the Board of
24 Ethics. I look forward to the chance to
25 serve the people of Philadelphia to

1 12/6/12 - WHOLE - RES. 120862 & 120980
2 foster public trust and the common good.

3 Thank you for your time this
4 morning, and I am happy to respond to any
5 questions that you may have.

6 COUNCIL PRESIDENT CLARKE:

7 Thank you. I'll start.

8 There's been a question about
9 the Board of Ethics in terms of its role,
10 not necessarily formally but informally.
11 There's always been conversation about
12 whether or not the Board of Ethics should
13 play primarily an education role in terms
14 of ensuring that employees and officials
15 understand the law to ensure that we
16 don't go astray or individuals don't do
17 something inadvertently versus whether or
18 not the Board of Ethics is essentially a
19 prosecutorial type of entity.

20 What do you think the role
21 should be as a body? Should it be heavy
22 on -- I'm not going to lead you, give you
23 a leading question.

24 MR. McCORMICK: Council

25 President, I think that the Board has a

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2 dual role. I think the first role should
3 be training and education to make sure
4 that issues don't arise, and I think the
5 Board has, from what I understand, been
6 increasing that part of their charge.
7 But I do believe that there is a part of
8 the Board that has to be there, maybe not
9 in a prosecutorial type way, but one that
10 when it sees or possible violations are
11 issued, then it has to investigate and
12 review those issues.

13 COUNCIL PRESIDENT CLARKE: And
14 in terms of the confidentiality of the
15 investigation, do you believe that that
16 should be held to the highest level?

17 There was an incident where
18 there's still some question as to whether
19 or not the confidentiality of that
20 particular case was kept, whereas,
21 without trying to specifically talk about
22 that case, where members of the Board of
23 Ethics and staff came to an office and
24 there were other individuals from
25 government at that particular location,

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2 in addition to which the press was there,
3 and there was some question as to whether
4 or not that was the appropriate process.
5 And nobody could seem to answer how the
6 press was at a particular location where
7 the Board of Ethics showed up to recover
8 some documents.

9 Is it your belief that the
10 Board of Ethics should play that role as
11 essentially what's normally known in the
12 layperson's world as a raid on an office?

13 MR. McCORMICK: As a what?

14 COUNCIL PRESIDENT CLARKE: A
15 raid. You would know about that, your
16 former employer.

17 MR. McCORMICK: As to that
18 particular instance, I don't know the
19 details, so I can't speak to that, but I
20 will say that I think the confidentiality
21 of an investigation should be paramount
22 until there is some level of proof that
23 there has been a violation or reason for
24 a thorough investigation. I do think
25 that, if I understand from the last month

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2 or two of speaking with the Board and
3 speaking with other members of this
4 Council, that there are now regulations
5 or rules in place that the Board has to
6 follow on the publication of information
7 and the dissemination of information. I
8 don't know them off the top of my head,
9 but I think confidentiality is important
10 to any investigation.

11 COUNCIL PRESIDENT CLARKE:

12 Okay.

13 Let me call Councilman Goode.

14 COUNCILMAN GOODE: Thank you,
15 Mr. President.

16 Good morning, Mr. McCormick.

17 MR. McCORMICK: Good morning.

18 COUNCILMAN GOODE: When the new
19 Board of Ethics was approved by the
20 voters, the Board did not have oversight
21 of campaign finance laws. It was a
22 subsequent bill offered by me that gave
23 the Board that oversight, which I try to
24 remind my colleagues of.

25 So my question is, what

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2 percentage of time is spent on campaign
3 finance laws versus other issues of
4 ethics, and what percentage of time do
5 you think should be spent on campaign
6 finance laws, time and resources?

7 MR. McCORMICK: Councilman, I'm
8 not trying to avoid the answer. I
9 honestly do not know how much time each
10 member of the Ethics Board or the staff
11 spends on campaign finance versus the
12 other regulations. I haven't spent any
13 time discussing that with the Board as it
14 stands now or its staff.

15 I believe that I would -- what
16 I do understand, though, is that an
17 amount of time has to be spent reviewing
18 campaign finance reports when they are
19 eventually published or sent out to --
20 sent to the state, and that an
21 investigation of that then encompasses as
22 much time as it can take.

23 COUNCILMAN GOODE: Do you
24 believe that it should be a major focus
25 of the Board?

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2 MR. McCORMICK: I don't believe
3 it should be a major focus, unless
4 there's possible violations. I think the
5 review of the reports probably takes as
6 much time as it takes, but I think there
7 are enough other issues with the other
8 ethics laws that campaign finance should
9 get as equal weight as everything else.

10 COUNCILMAN GOODE: And would
11 the Board of Ethics, quote/unquote, have
12 enough work without that responsibility
13 assigned to it?

14 MR. McCORMICK: I'm sorry. Can
15 you repeat that?

16 COUNCILMAN GOODE: Would the
17 Board of Ethics have enough work without
18 that responsibility assigned to it?

19 MR. McCORMICK: Again,
20 Councilman, I don't know the answer to
21 that, but it would appear to me that the
22 Board certainly would have enough
23 responsibility without that. But I would
24 think that that's such an integral part
25 of their charge, that it would be --

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2 COUNCILMAN GOODE: It was not
3 part of the original charge. When the
4 voters approved the Board of Ethics, the
5 Board of Ethics had nothing to do with
6 campaign finance.

7 MR. McCORMICK: I would think
8 that even without the campaign finance,
9 the Ethics Board would still exist for
10 its purposes, but that's based on my
11 slight knowledge of how much time and
12 effort they spend on different things. I
13 can't speak -- I'm not on the Board now,
14 and I have not ever discussed that with
15 anybody on the Board or the staff.

16 COUNCILMAN GOODE: Thank you.

17 Thank you, Mr. President.

18 COUNCIL PRESIDENT CLARKE:

19 Thank you, Councilman.

20 The Chair recognizes
21 Councilwoman Tasco.

22 COUNCILWOMAN TASCO: Good
23 morning. Thank you very much for coming
24 in.

25 MR. McCORMICK: Thank you,

1 12/6/12 - WHOLE - RES. 120862 & 120980
2 Councilwoman.

3 COUNCILWOMAN TASC0: I don't
4 have much to say. We worked very closely
5 with the Ethics Board the past few years
6 to come to some understanding of how we
7 saw the Ethics Board should operate and
8 how they saw they should operate, and I
9 want to go back to the question that
10 Councilman Clarke asked.

11 In some instances in the past,
12 there had seemed to be a "gotcha," "we
13 gotcha," and I hope that -- and, of
14 course, certainly the Ethics Board has
15 certainly changed, in my view, the way
16 that it's operated. So I hope that that
17 will continue, that they work with -- the
18 whole issue for me was the campaign
19 finance law that they became charged with
20 was new to those of us who are in the
21 political arena, and certainly having
22 worked in that arena for hundreds of
23 years and then have a committee come
24 forth to regulate the operation, without
25 even the staff knowing what the process

1 12/6/12 - WHOLE - RES. 120862 & 120980
2 was, how it operated.

3 So we've come a long way with
4 working with the Ethics Board. Not to
5 tell them what to do, but to sort of let
6 them give them the lay of the land of how
7 things operate. Then we can figure out
8 how we can fix things like that.

9 So I just hope that we don't --
10 that we will continue the cooperative
11 spirit and not get back into the "gotcha"
12 attitude, mentality.

13 MR. McCORMICK: Thank you,
14 Councilwoman, and I appreciate the fact
15 that the Council and the Ethics Board
16 have seemed to have worked together more
17 closely over the last two to three years,
18 and if I am confirmed, I pledge that I
19 will try to continue that relationship
20 and collaboration. I do believe that
21 training and education is paramount -- is
22 of paramount importance, and I think that
23 would stop maybe some of the "gotcha"
24 mentality if the answers are given before
25 the investigation has to begin.

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2 COUNCILWOMAN TASC0: Thank you.

3 COUNCIL PRESIDENT CLARKE:

4 Thank you, Councilwoman.

5 Any other questions?

6 (No response.)

7 COUNCIL PRESIDENT CLARKE:

8 Thank you very much.

9 We will now go into the public
10 meeting. I understand that there is an
11 amendment. Councilman Jones will be
12 offering the amendment to Resolution
13 120980.

14 COUNCILMAN JONES: Thank you,
15 Mr. President. I would like to offer an
16 amendment for Resolution 120980. The
17 amendment is to provide a name correction
18 for Mr. Brian J. McCormick to change the
19 resolution to Mr. Brian J. McCormick, Jr.
20 The amendment has been circulated to
21 members, and I make a motion for its
22 adoption.

23 (Duly seconded.)

24 COUNCIL PRESIDENT CLARKE: It's
25 been moved and properly seconded.

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2 Resolution 120980 has been amended.

3 Councilman Jones, can I ask you
4 to make a motion for Resolution 120980 to
5 be voted out of Committee.

6 COUNCILMAN JONES:

7 Mr. President, I make a motion that
8 Resolution No. 120980 be voted out of
9 Committee.

10 (Duly seconded.)

11 COUNCIL PRESIDENT CLARKE: It's
12 been moved and properly seconded.

13 All those in favor?

14 (Aye.)

15 COUNCIL PRESIDENT CLARKE:

16 Those opposed?

17 (No response.)

18 COUNCIL PRESIDENT CLARKE: The
19 ayes have it.

20 Councilman Jones, can you make
21 a motion on Resolution 120862.

22 COUNCILMAN JONES: Thank you,
23 Mr. President. I make a motion to move
24 Resolution 120862 out of Committee.

25 (Duly seconded.)

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2 COUNCIL PRESIDENT CLARKE: It's
3 been moved and properly seconded.

4 All those in favor?

5 (Aye.)

6 COUNCIL PRESIDENT CLARKE:

7 Those opposed?

8 (No response.)

9 COUNCIL PRESIDENT CLARKE: The
10 ayes have it. Resolution 120862 is voted
11 out of Committee.

12 This concludes the public
13 meeting.

14 Thank you all very much.

15 MR. McCORMICK: Thank you.

16 (Committee on Finance concluded
17 at 9:45 a.m.)

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CERTIFICATE

I HEREBY CERTIFY that the
proceedings, evidence and objections are
contained fully and accurately in the
stenographic notes taken by me upon the
foregoing matter on December 6, 2012, and that
this is a true and correct transcript of same.

MICHELE L. MURPHY
RPR-Notary Public

(The foregoing certification of this
transcript does not apply to any reproduction
of the same by any means, unless under the
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A accurately 20:5 addition 10:2 addresses 5:25 Administration 2:20 adoption 17:22 advance 7:16 Advisory 6:7 amended 18:2 amendment 17:11,12,16,17 17:20 amount 6:13 12:17 and/or 20:22 answer 10:5 12:8 13:20 answers 16:24 anybody 14:15 appear 13:21 appearing 6:19 apply 20:20 appointee 6:6 appointment 1:21 2:15 appreciate 16:14 approached 2:24 appropriate 10:4 approve 7:15 approved 11:19 14:4 area 5:14 arena 15:21,22 asked 15:10 assigned 13:13,18 astray 8:16 attended 4:20 attending 4:20 attitude 16:12 available 3:7 avoid 12:8 Aye 18:14 19:5 ayes 18:19 19:10 a.m 1:7 19:17 B	B 1:17 back 15:9 16:11 based 14:10 BASS 1:10 Beck 1:19 2:11 3:6 behalf 6:17 belief 10:9 believe 4:14 9:7 9:15 12:15,24 13:2 16:20 best 7:17 bill 1:12 11:22 BLACKWELL 1:11 BLONDELL 1:16 Board 1:19,21 2:11,16 4:3,5,11 4:16 5:22 6:4,22 7:19,23 8:9,12 8:18,25 9:5,8,22 10:7,10 11:2,5 11:19,20,23 12:10,13,25 13:11,17,22 14:4,5,9,13,15 15:5,7,14 16:4 16:15 BOBBY 1:13 body 6:17 8:21 Brian 1:21 2:15 3:13,24 17:18 17:19 BROWN 1:16 Buchanan 5:5,6,7 Bureau 4:23 business 5:8 C call 11:13 calling 4:12 campaign 6:2,8 6:11,14 11:21 12:2,5,11,18 13:8 14:6,8 15:18 	case 9:20,22 Center 4:19 certainly 13:22 15:14,15,21 CERTIFICATE 20:2 certification 20:19 CERTIFY 20:3 certifying 20:23 Chair 14:20 chaired 5:23 chance 7:24 change 17:18 changed 15:15 charge 9:6 13:25 14:3 charged 15:19 Christmas 2:7 CINDY 1:10 circulated 17:20 cities 6:15 citizen 6:23 city 1:2,6 2:4 3:24 4:6,10,19 6:23 6:25 7:3,8,14,22 Clarke 1:10 2:2 2:18 3:2,5,14,20 3:23 8:6 9:13 10:14 11:11 14:18 15:10 17:3,7,24 18:11 18:15,18 19:2,6 19:9 CLERK 2:9 closely 15:4 16:17 closing 7:21 collaboration 16:20 collaborations 7:11 colleagues 7:9 11:24 college 4:22 come 2:22 3:25 15:6,23 16:3 coming 14:23 	committee 1:3 2:3 5:22 15:23 18:5 18:9,24 19:11 19:16 common 8:2 comparable 6:15 complexity 7:10 concentration 5:9 concerning 6:2 concluded 19:16 concludes 19:12 confidentiality 9:14,19 10:20 11:9 confirmed 16:18 confirming 1:18 1:20 2:10,14 connection 4:7 consider 4:9 considerable 6:13 considering 7:23 contained 20:5 continue 15:17 16:10,19 continuous 7:7 control 20:22 conversation 8:11 cooperative 16:10 correct 20:8 correction 17:17 Council 1:2,10 2:2,4,18 3:2,5 3:14,16,20,23 3:24 4:7 7:14,22 8:6,24 9:13 10:14 11:4,11 14:18 16:15 17:3,7,24 18:11 18:15,18 19:2,6 19:9 Councilman 1:11 1:12,12,13,13 1:14,14,15,16 11:13,14,18 12:7,23 13:10 13:16,20 14:2 14:16,19 15:10 	17:11,14 18:3,6 18:20,22 Councilwoman 1:10,11,15,16 1:17 14:21,22 15:2,3 16:14 17:2,4 County 4:18 course 15:14 current 3:8 6:10 CURTIS 1:14 D D 1:15 DARRELL 1:10 DAVID 1:15 December 1:7 20:7 dedicated 7:6 DENNIS 1:14 details 10:19 different 14:12 direct 20:22 Directors 5:22 discuss 6:10 discussed 14:14 discussing 12:13 dissemination 11:7 diverse 7:13 documents 10:8 dollars 5:19 doubt 7:2 dual 9:2 Duly 17:23 18:10 18:25 E education 8:13 9:3 16:21 effective 7:12 effectively 4:15 efficient 6:25 effort 14:12 Elections 5:24 employed 4:23 employees 7:4 8:14
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