
BOARD OF ETHICS FINDINGS AND ORDER

File Number: 19-BOE-006
Complainant: Daniel Coyne
Respondent: Alderman Rainey
Date: August 5, 2020

This matter, coming before the City of Evanston Board of Ethics, and the parties being fully advised, the following findings are made, and **IT IS HEREBY ORDERED:**

PROCEDURAL BACKGROUND

1. On November 10, 2020, Complainant Daniel Coyne filed an Ethical Violation Complaint (“Complaint”) against Ald. Ann Rainey pursuant to the City of Evanston’s Code of Ethics (“Code”) (eff. 2019).
2. The Board of Ethics (“BOE”) held a meeting on March 3, 2020, during which it considered its jurisdiction to hear the Complaint.
3. After giving Mr. Coyne an opportunity to supplement his Complaint with oral argument and reviewing the Complaint, the BOE deliberated on the issue of jurisdiction pursuant to § 1-10-8 of the Code.
4. On March 3, 2020, the BOE found that it had jurisdiction over the Complaint in that (1) Ald. Rainey was a person such to the Code at the time of the alleged misconduct; and (2) the alleged misconduct was covered by the Code.
5. On March 5, 2020, the BOE gave Ald. Rainey notice of the Complaint against her and informed her how and when she would have an opportunity to respond.
6. On June 17, 2020, the BOE provided Ald. Rainey a second notice of the Complaint against her and informed her how and when she would have an opportunity to respond.
7. Because of the COVID-19 pandemic, the BOE did not meet again until July 1, 2020.
8. On July 1, 2020, the BOE met and held a hearing to consider the allegations against Ald. Rainey. During the hearing, both Mr. Coyne and Ald. Rainey provided testimony, video and documentary evidence to the BOE.

9. Upon the conclusion of the hearing on July 1, 2020, the BOE deliberated on the pleadings and testimony provided prior to issuing this final Finding and Order.

ALLEGATIONS

10. The Complaint alleges that Ald. Rainey engaged in prohibited political activities in violation of § 1-10-5(B) of the Code at the April 1, 2019, City Rules Committee meeting and April 1, 2019, City Council meeting.

11. The Complaint does not allege that Ald. Rainey's comments at the Ridgeville Park District Commissioner meeting on March 14, 2019, or the City Council meeting on October 14, 2019, violated the Code.

12. Mr. Coyne alleges that Ald. Rainey's comments on March 14, 2019, were racist and that her comments on October 14, 2019, were threatening to Ms. Beth Stare. Ald. Rainey disputes these characterizations. This Board shares the community's concerns that racist comments are offensive and injudicious when made by City officials. However, that is not the issue before the Board today. Mr. Coyne's Complaint alleges only that Ald. Rainey violated § 1-10-5(B)(1) of the Code by participating in prohibited political activities. This Board therefore does not make any findings related to Ald. Rainey's alleged statements on March 14, 2019, and October 14, 2019.

RELEVANT CODE PROVISIONS

13. § 1-10-5(B)(1) of the Code which states:

“No officer or employee shall intentionally perform any prohibited political activity during any ‘compensated time,’ as defined herein. No officer or employee shall intentionally use any property or resources of the City in connection with any prohibited political activity. No employee shall use the prestige of his/her position on behalf of any political party or for any political purpose.”

14. “Prohibited political activity” is defined, in relevant part, by § 1-10-5(A), as “campaigning for any elective office or for or against any referendum question.”

15. “Campaigning for an elective office” is defined as:

“Any activity in furtherance of an effort to influence the selection, nomination, election, or appointment of any individual to any federal, state, or local public office or office in a political organization, or the selection, nomination, or election of presidential or vice presidential electors, but does not include activities: 1) relating to the support or opposition of any executive, legislative, or administrative action, 2) relating to collective

bargaining, or 3) that are otherwise in furtherance of the person's official duties." § 1-10-5(A).

FINDINGS AND ORDER

16. The BOE evaluated the Complaint, Response, video and documentary exhibits submitted during the July 1, 2020, hearing and all statements on the record on July 1, 2020.

17. The BOE finds that Mr. Coyne is an elected commissioner of the Ridgeville Park District, who was re-elected on April 2, 2019.

18. The BOE finds that Ald. Rainey is a City Councilwoman and a constituent of Mr. Coyne.

19. The BOE finds that Mr. Coyne was present at the April 1, 2019, Rules Committee meeting and the City Council meeting and that he read a prepared statement during the public comment section of each meeting.

20. The BOE finds that, in the prepared statement, Mr. Coyne accused Ald. Rainey of making racist comments at a Ridgeville Park District Commission meeting on March 14, 2019.

21. The BOE finds that Ald. Rainey responded to Mr. Coyne's comments at both the Rules Committee and City Council meetings on April 1, 2019. In her comments, she disagreed with Mr. Coyne's characterization of her March 14, 2019 remarks, explained that she took issue with the Park District Commissioners' performance, and was critical of Mr. Coyne.

22. The BOE finds that, during her statements on April 1, 2019, Ald. Rainey did not mention any other candidates and made only one comment regarding the election the next day: "Maybe he got a vote or two, I don't know, but good luck to the good people that are running. Bad luck to him."

23. The BOE finds that Ald. Rainey's comments at the April 1, 2019, Rules Committee meeting and the April 1, 2019, City Council meeting may have been intemperate and insensitive; however, her comments did not constitute a prohibited political activity or a campaign for an elected office.

24. The definition of "campaign for an elected office" specifically excludes activities "that are otherwise in furtherance of the person's official duties." Mr. Coyne's prepared statement attacked Ald. Rainey's character and integrity. Ald. Rainey was allowed to respond to this attack. *See* City Council Rules 10.6. Thus, her statements were made in furtherance of her official duties as Alderman.

25. The BOE finds that Ald. Rainey's comments do not rise to the level of campaigning for an elected office or prohibited political activities.

26. Therefore, the BOE determines that Ald. Rainey did not violate § 1-10-5(B)(1) of the Code (3-0 vote).

27. This is an advisory opinion pursuant to § 1-10-2(C) of the City Code of Ordinances.

Date: August 5, 2020

Entered:

/s Carrie Anne Von Hoff

Acting Chair