



# City of Madison

City of Madison  
Madison, WI 53703  
www.cityofmadison.com

## Meeting Minutes - Draft ETHICS BOARD

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Wednesday, February 8, 2012

4:45 PM

Room LL130, Madison Municipal Bldg.  
215 Martin Luther King Jr. Blvd.

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### 1. CALL TO ORDER / ROLL CALL

**Present:** 4 -  
David Albino; Laura D. Rose; Michael B. Jacob and Drew Cochrane

**Absent:** 2 -  
Eric D. Hands and Carol A. Weidel

**Excused:** 1 -  
Michael E. Verveer

**Others Present:** Assistant City Attorney Steven Brist, City Attorney Michael May, Assistant City Attorney Lara Mainella, Attorney Rick Petri and Rosemary Lee

Michael Jacob, chair, called the meeting to order at 4:49 p.m.

### 2. APPROVAL OF MINUTES

A motion was made by Rose, seconded by Cochrane, to Approve the Minutes.  
The motion passed by voice vote/other.

### 3. PUBLIC COMMENT

There was no Public Comment.

### 4. DISCLOSURES AND RECUSALS

Assistant City Attorney Brist stated that he is a member of the Madison City Attorneys Association and would be affected by Item 8. He stated that he did not vote agenda items, but wanted to disclose his status.

**COMPLAINTS**

5. [24340](#) Board of Ethics Complaint: Davin Pickell v. Diedre Garton, 3.35 (5) (a) 3 a

**Attachments:** [PICKELL V. GARTON.3.35\(5\)\(a\)3a.pdf](#)

**A motion was made by Rose, seconded by Albino, to Dismiss. The motion passed by voice vote/other.**

6. [24342](#) Board of Ethics Complaint: Davin Pickell v. Diedre Garton, 3.35 (5) (f) 2

**Attachments:** [PICKELL V. GARTON.3.35\(5\)\(f\)2.pdf](#)

**A motion was made by Rose, seconded by Albino, to Sustain. The motion passed by voice vote/other.**

7. [24343](#) Board of Ethics Complaint: Davin Pickell v. Diedre Garton, 3.35 (5) (h) 1

**Attachments:** [PICKELL V. GARTON.3.35\(5\)\(h\).pdf](#)

**A motion was made by Rose, seconded by Albino, to Dismiss. The motion passed by voice vote/other.**

**Items 5, 6 and 7, Complaints, were considered together. The Complainant, Mr. Pickell was not present. The Respondent, Ms. Garton was not present but Attorney Rick Petri appeared on her behalf. In response to a question from a Board member, Assistant City Attorney Brist stated that under Section I.V.7 of Ethics Board Policy Manual, the Board “may” dismiss a complaint if the complainant does not appear.**

**Assistant City Attorney Brist stated that all three complaints were based on the same alleged act, that Ms. Garton failed to disclose her membership in the 201 State Foundation, on her statement of ethics forms, but that each complaint alleged that this alleged action was a violation of three separate sections of Sec. 3.35. He state that, under the concept of “multiplicity”, that if the Board were to find the single act of failure to disclose violated three separate sections of the ethics code, it would be appropriate that only one penalty should be imposed.**

**Attorney Petri stated that he had attempted to contact Mr. Pickell to discuss a resolution of the complaints but that Mr. Pickell did not respond to Attorney Petri’s letters. Attorney Petri asked that, since the Respondent had admitted to the allegations in the first complaint (Item 5) that the Board should proceed on that complaint and dismiss with prejudice Items 6 and 7.**

**It was a consensus of the Board members present that the members knew**

what the facts were in the complaints and that the Board should proceed without Mr. Pickell's presence.

In response to a question from Mr. Cochrane, Attorney Petri stated that the Respondent had admitted to a failure to disclose her membership in 201 State Foundation in response to the first complaint (Item 5). Attorney Petri stated that Ms. Garton listed membership in over two dozen organizations on the Statement of Interests form and that the omission of 201 State Foundation was an oversight, and at the most Ms. Garton should be admonished by the Board for this oversight. Attorney Petri reviewed the entities connected with the Overture Center and the history of the negotiations with banks regarding the transfer of the ownership of the Overture Center.

Ms. Rose asked if it was correct that the Ad Hoc Committee no longer existed, and if so, what penalty could be imposed if Ms. Garton was no longer a city employee or committee member. Assistant City Attorney Brist stated that the Ad Hoc Committee no longer existed and that the Board could admonish the Respondent or possibly refer the matter to the City Attorney for prosecution. The Board's sanctions are stated in Sec. 3.35 (13). Mr. Cochrane pointed out that only Sub (b) of that Section applied to City Committee members, other than the prosecution. Mr. Cochrane stated that because Ms. Garton was not an elected official, the Board could not sanction, censure or reprimand a committee member under Sub (a).

Ms. Rose moved to find that the Respondent had violated 3.35(5)3(a), as outlined in the first complaint (Item 5). Mr. Albino seconded the motion.

Mr. Cochrane stated that although the Respondent had admitted to the a violation of the first complaint (item 5), that he felt that the allegations in the second complaint (item 6 ) better fit the circumstances, because Sec. 5(f)2 involved a failure to disclose. By consent the members of the committee amended the motion to find a violation of the second count (Item 6), rather than the first complaint (Item 5). Attorney Petri agreed to withdraw the admission to the first complaint and admit to the second complaint on behalf of the Respondent.

The Chair called the motion, finding a violation of the Second Complaint (Item 6), the motion passed on a voice vote. Mr. Cochrane moved that there be no sanction for the violation, and Ms. Rose seconded the motion. Mr. Cochrane stated that the Board found a violation and he did not want to do further with an admonishment. Mr. Jacob stated that facts were particular to the case and the motion was appropriate. Mr. Cochrane stated, that based on the facts, that he thought that everyone knew what Ms. Garton's role was and who she represented in the Ad Hoc committee actions. He also mentioned the limited penalties available for a former committee member. The motion for no sanctions passed on a voice vote.

Mr. Cochrane moved to dismiss the complaints in Items 5 and 7 with prejudice. Mr. Albino seconded the motion. The motion passed on a voice vote.

Alder Veveer arrived at 5:30 PM from the meeting of the Board of Public Works.

- Present:** 5 -  
Michael E. Verveer; David Albino; Laura D. Rose; Michael B. Jacob and  
Drew Cochrane
- Absent:** 2 -  
Eric D. Hands and Carol A. Weidel

#### REFERRAL FROM COMMON COUNCIL

8. [21410](#) Creating new Sec. 3.35(9)(b)7. and renumbering current Sec. 3.35(9)(b)7. to Sec. 3.35(9)(b)8. of the Madison General Ordinances to not require Assistant City Attorneys, Hearing Examiners and the Madison Municipal Judge to file Statements of Interests.

Attachments: [Version 1](#)

The Board heard from both City Attorney Michael May and from Assistant City Attorney Lara Mainella regarding a proposed substitute amendment to Item 21410. They had prepared a draft but it had not yet been put in Legistar. The draft was distributed and the Committee members stated that they understood the proposed changes but asked if the language of the substitute needed to be changed. Following discussion with City Attorney May and Ms. Mainella it was felt that there were indeed changes that should be made. Alder Verveer stated that he was willing to support the proposed changes and asked if the drafters had consulted with Alder Skidmore. Alder Skidmore came to the room and expressed his support for the proposal. Ms. Rose moved to recommend adoption of the substitute with the amendments that had been discussed before the Committee. Mr. Albino seconded the motion. The motion passed on a voice vote. City Attorney May and Ms. Mainella are to prepare the substitute in final form and submit it to Board staff.

#### BUSINESS ITEM

10. Online Access to Statements of Interest

Assistant City Attorney Brist stated that Item 10 had been placed on the agenda at the request of Sally Miley of the Mayor's Office, but that Ms. Miley could not be present. The Board took no action on Item 10

11. ADJOURNMENT

The Board discussed possible meeting dates for future meeting. Alder Verveer moved to adjourn, Ms. Rose seconded the motion. The motion passed on a voice vote. The meeting was adjourned at 5:50 PM.