



City of Madison

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

Meeting Minutes - Approved ETHICS BOARD

Thursday, September 1, 2016

4:30 PM

215 Martin Luther King, Jr. Blvd. Room 313

1. CALL TO ORDER / ROLL CALL

Present: 4 - William C. Keys; Mary Czyszczak-Lyne; Joseph B. Baring and James D. Cobb

Absent: 3 - Michael E. Verveer; David Albino and Drew Cochrane

Others present: City Attorney Michael May, Assistant City Attorney Steve Brist, Alder David Ahrens, Katherine Hurtgen, Gregg McManners.

Quorum present meeting properly noticed.

2. APPROVAL OF MINUTES

A motion was made by Bill Keyes, seconded by James Cobb to approve the minutes of the October 28, 2015 meeting. The motion passed by voice vote/other.

Drew Cochrane arrived at 4:33 p.m.

Present: 5 - William C. Keys; Mary Czyszczak-Lyne; Joseph B. Baring; James D. Cobb and Drew Cochrane

Absent: 2 - Michael E. Verveer and David Albino

3. PUBLIC COMMENT

There was no public comment.

4. DISCLOSURES AND RECUSALS

Assistant City Attorney Brist stated that he would not be advising the Ethics Board regarding Item #44164, because he provides legal advice to Monona Terrace. City Attorney May would advise the Ethics Board on Item #44164.

Alder Verveer stated that he serves on the Board of Directors of Monona Terrace and that he is mentioned in the Complaint in Item #44164. Alder Verveer said that as a result, he would recuse himself and would not participate in the decision-making on Item #44164.

Ald. Mike Verveer arrived at 4:39 p.m. David Albino arrived at 4:42 p.m.

Present: 7 - Michael E. Verveer; William C. Keys; Mary Czyszczak-Lyne; David Albino; Joseph B. Baring; James D. Cobb and Drew Cochrane

NEW BUSINESS

5. [44164](#) Ethics Board Complaint: Hearing on the merits.
Katherine M. Hurtgen, Associate Director Monona Terrace, Complainant
Gregg McManners, Executive Director Monona Terrace, Subject of Complaint

Upon conclusion of the hearing, the Board may go into closed session pursuant sec. 19.85(1)(a), Wis. Stats., for the purpose of deliberating concerning a case which was the subject of any judicial or quasi-judicial trial or hearing before that governmental body. If the Board does convene in closed session, notice is hereby given pursuant to sec. 19.85(2), Wis. Stats., that upon completion of the closed session, the Board may reconvene in open session to discuss the above matter without waiting 12 hours.

Attachments: [EB Memo Hurtgen complaint.pdf](#)
[ETHICS BOARD COMPLAINT Katherine M Hurtgen v Gregg McManners.pdf](#)
[Ethics Board Meeting Minutes June 2, 2011.pdf](#)
[MOTION TO DISMISS COMPLAINT Hurtgen v McManners.pdf](#)
[PREHEARING BRIEF Hurtgen v McManners.pdf](#)
[BRIEF IN OPPOSITION TO MOTION TO DISMISS Hurtgen v McManners.pc](#)
[COMPLAINANT'S PRE-HEARING BRIEF Hurtgen v McManners.pdf](#)
[MICHAEL P. MEMO TO ETHICS BOARD 9-21-16.pdf](#)

The Board then considered Item #44164, Jurisdictional Hearing. Katherine M. Hurtgen, Associate Director Monona Terrace, Complainant, Gregg McManners, Executive Director Monona Terrace, Subject of Complaint.

Alder Verveer stepped away from the table. Chair Mary Czyszczak-Lyne called upon City Attorney May to discuss his memorandum dated August 23, 2016. The memorandum discussed whether an allegation brought under Sec. 3.35(4) MGO was within the jurisdiction of the Board. City Attorney May distributed minutes from the June 2, 2011, where a similar jurisdiction issue was discussed.

Following discussion, James Cobb moved that the Ethics Board find that it had jurisdiction to consider Item #44164. Joseph Baring seconded the motion. The motion passed on a voice vote. Alder Verveer did not participate in the voice vote.

City Attorney May then discussed possible dates for the hearing on the matter. There was a consensus that the hearing be held on September 22, 2016 although Bill Keyes could not be present on that day. City Attorney May then left the meeting.

6. [44165](#) Ethics Board Complaint. Jurisdictional Hearing. If jurisdiction is found, a date will be set for a hearing on the merits.
Alex Singer, Complainant
Jane Nicholson, Director of Education, Olbrich Botanical Gardens, Subject of Complaint

Attachments: [ETHICS COMPLAINT Alex Singer v Jane Nicholson. Olbrich Gardens.pdf](#)
[August 31, 2016 Memo to the Ethics Board from ACA Steve Brist.pdf](#)
[September 1, 2016 Letter from Angela Donahue. Olbrich Gardens Financial C](#)

The Board then considered Item #44165, Jurisdictional Hearing.

Alex Singer, Complainant

Jane Nicholson, Director of Education, Olbrich Botanical Gardens, Subject of Complaint

Alder Verveer returned to the Ethics Board Meeting. Chair Mary Czyszczak-Lyne called upon Assistant City Attorney Brist to discuss his memorandum dated August 31, 2016. One of the jurisdictional issues related to the fact that the Subject of the Complaint, Jane Nicholson, was not a City employee, but was employed by the Olbrich Botanical Society, a 501(c)3 nonprofit organization. Assistant City Attorney Brist referred the Board to Sec. 3.35(3), MGO, which states that the Ethics code applies to City elected officials, City employees and members of City boards and committees. Assistant City Attorney Brist distributed an email from the Complainant, Alex Singer. Assistant City Attorney Brist asked if either Alex Singer or Jane Nicholson was present at the hearing. Neither party responded to his question and it appeared that they were not present at the hearing. Assistant City Attorney Brist stated that Roberta Sladky had registered on behalf of Olbrich Botanical Gardens and that she was available to testify that Jane Nicholson was an employee of the society and not an employee of the City.

Bill Keyes moved that the Ethics Board find that it did not have jurisdiction to consider Item #44165. James Cobb seconded the motion. The motion passed on a voice vote.

ADJOURNMENT

Alder Verveer stated that because of his recusal on Item #44164, he would not be present at the September 22, 2016 hearing.

Joseph Baring moved to adjourn, James Cobb seconded the motion. The motion passed on a voice vote. Meeting adjourned at 5:36 p.m.