



City of Madison

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

Meeting Minutes - Approved ETHICS BOARD

Tuesday, October 25, 2016

5:00 PM

210 Martin Luther King, Jr. Blvd.
Room 108 (City-County Building)

1. CALL TO ORDER / ROLL CALL

Others present: Gregg McManners and his attorney, Greg Everts, Katherine Hurtgen and her attorney Lisa Elkins, City Attorney Michael May

The meeting was called to order at 5:01 p.m.

Quorum present and meeting properly noticed.

Present: 6 - William C. Keys; Mary Czyszczak-Lyne; David Albino; Joseph B. Baring; James D. Cobb and Drew Cochrane

Excused: 1 - Michael E. Verveer

2. APPROVAL OF MINUTES

A motion was made by James Cob and seconded by Joseph Baring to approve the minutes of the September 22, 2016 minutes. The motion passed by voice vote.

3. PUBLIC COMMENT

No public comment.

4. DISCLOSURES AND RECUSALS

City Attorney May noted Alder Verveer's continued recusal on the complaint.

DISCUSSION ITEMS

5. [44164](#)

Ethics Board Complaint:

Katherine M. Hurtgen, Associate Director Monona Terrace, Complainant
Gregg McManners, Executive Director Monona Terrace, Subject of Complaint

Hearing on the Motion to Dismiss Held in Abeyance. Following a ruling on the motion to dismiss, the Board will set a further date for a hearing on the merits, if necessary.

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.pdf](#)
[COMPLAINANT'S PREHEARING BRIEF Hurtgen v McManners.pdf](#)
[MICHAEL P MEMO TO ETHICS BOARD 9-21-16.pdf](#)
[AFFIDAVIT OF KATHERINE M. HURTGEN & EXHIBITS.10-3-16 \(2\).pdf](#)
[MICHAEL P. MAY MEMO TO ETHICS BOARD.10-14-16.pdf](#)
[DEPARTMENT REPORTS T THE ETHICS BOARD.pdf](#)
[11-30-16 Letter from Atty Elkins RE: Hurtgen v McManners Final Decision.pdf](#)
[Ethic Board FINAL DECIISON RE Katherine M. Hurtgen v Gregg McManner](#)

Drew Cochrane moved and James Cobb seconded a motion to dismiss counts 2, 4 and 5 of the complaint as being time-barred by the twelve (12) month limitation in the Ethics Code, leaving the Ethics Board with no jurisdiction. After discussion, the motion passed unanimously on a voice vote.

Drew Cochrane moved and Joseph Baring seconded a motion to dismiss counts 1 and 3 as only alleging violations of sec. 3.35(4), MGO, leaving the Ethics Board with no jurisdiction, based on prior rulings of the Board. Other members noted that the reports from city agencies failed to show any violation of sec. 3.35(4), MGO, even if the Board were to assert jurisdiction. After discussion and a determination that the Board need not hear additional argument, the motion passed unanimously on a voice vote.

NEW BUSINESS

6. [44445](#) Amending Section 3.35(4) and creating Section 3.35(12)(d) of the Madison General Ordinances to restrict complaints before the Ethics Board to allegations of violation of the Ethics Code, and to require that any complaint filed against a managerial employee be forwarded to the Mayor.

Attachments: [Version 2](#)
[Version 1](#)

The Board discussed the proposed amendment and a consensus was reached that the amendment went too far. The Board wants an amendment that removes jurisdiction if the only allegations are a violation of sec. 3.35(4), MGO, and there is no final adjudication or determination of a violation of law by another legal entity. If there were such a determination, the Board would have jurisdiction under sec. 3.35(4), but would not have a hearing on the underlying determinations of a legal violation. The Board would, in that instance, simply decide if the legal violation was also a violation of the Ethics Code, and make a recommendation as to what further actions should be taken.

Based upon that discussion, the City Attorney is to draft a substitute to bring back to the Ethics Board.

Joseph Baring moved to refer the ordinance to the next meeting of the Board to consider the substitute, second by James Cobb. Motion passed unanimously on a voice vote.

7. [44684](#) City of Madison Jeffrey Clay Erlanger Civility in Public Discourse Award

Attachments: [2016erlanger info and app.pdf](#)

The Board was reminded of the time to make nominations for the Jeffrey Clay Erlanger Civility Award.

8. ADJOURNMENT

James Cobb moved to adjourn, second by Bill Keys. Motion passed unanimously on a voice vote. Meeting adjourned at 5:43 p.m.