

**CITY OF MADISON
OFFICE OF THE CITY ATTORNEY
Room 401, CCB
266-4511**

Date: August 23, 2016

MEMORANDUM

TO: .. Members of the Ethics Board

FROM: Michael P. May, City Attorney

RE: Ethics Board Meeting of September 1, 2016
Complaint: Hurtgen v. McManners

ACA Steve Brist provides legal advice to the Monona Terrace. Because of that, he will not be advising the Board on this complaint. I will be doing that. Steve will be handling the other matter on your agenda for that evening. If you have any questions prior to the meeting on this matter, please contact me and not ACA Brist.

The complaint with exhibits is attached to this memorandum, and will be included as an attachment to your agenda for the meeting on September 1, 2016. After consultation with the Board Chair, I am setting up the agenda for a jurisdictional hearing on this matter. If the Board finds that it has jurisdiction, then we will set up a convenient time for the Board members and the parties to appear and present any evidence or witnesses that they wish to present on the substance of the claim.

The Ethics Board Policy Manual explicitly calls for a jurisdictional hearing to determine whether the allegations, even if proven, fall within the strictures of the Ethics Code, sec. 3.35, MGO. The Manual also calls for at least 10 days notice for a hearing on the merits. We are already within the 10 day limit, so any hearing on the merits will have to be scheduled on September 1.

I also advise that a jurisdictional hearing is important because the main allegations of the complaint are a series of violations of sec. 3.35(4), MGO. In the past, the Board has found such allegations are not within its jurisdiction, that is, alleging a violation of some other law or rule outside the Ethics Code, and then asserting this also is a violation of 3.35(4), generally is not within the jurisdiction of the Board.

CC: Greg McManners
Attorney Jessica Kramer