



City of Madison

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

Meeting Minutes - Draft ETHICS BOARD

Wednesday, July 30, 2014

4:30 PM

210 Martin Luther King, Jr. Blvd. Room 108

1. CALL TO ORDER / ROLL CALL

The Meeting was called to Order by Chair Czyszczak-Lyne at 4:31 p.m.

Present: 4 - William C. Keys; Mary Czyszczak-Lyne; Samuel L. Owens and James D. Cobb

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

Also present were Alder Mark Clear, Sue Pastor and Assistant City Attorney Steve Brist.

2. APPROVAL OF MINUTES

A motion was made by Keys, seconded by Cobb, to Approve the Minutes of June 4, 2014. The motion passed by voice vote. Samuel Owens stated that he was abstaining on the question, because he was not present at the previous meeting.

3. PUBLIC COMMENT

Sue Pastor, who indicated that she was a resident of District 17, spoke to the Board members. Pastor stated that she hoped that the Board would issue an opinion that recusal was required by Alder Mark Clear, regarding the matter before the Board.

4. DISCLOSURES AND RECUSALS

Bill Keys indicated that he was the campaign treasurer of Alder Mark Clear's opponent in the upcoming race for the Assembly and that he would not vote nor would he take part in the discussion of Legistar #34942. Attorney Brist noted that if Keys were to leave, that the Board would not have a quorum and the Board would not be able to proceed.

ADVISORY OPINION REQUEST

5. [34942](#) Request of Alder Mark Clear for Advisory Opinion regarding disclosures or recusals related to Alder Clear's ownership of Clear Solutions, LLC, which consults for Accelerate Madison, Inc, ("Accelerate") a program of the Greater Madison Chamber of Commerce ("Chamber").

Attachments: [Alder Mark Clear's Request for Advisory Opinion. Dated 6-2-14.pdf](#)
[STEVE BRIST MEMO RE Alder Mark Clear's Request for an Advisory Opini](#)

The Board began by discussing the Memorandum prepared by Assistant City

Attorney Steve Brist. Alder Mark Clear appeared before the Board and indicated that facts had changed regarding his business relationship with the Greater Madison Chamber of Commerce since he last appeared before the Board. Accelerate Madison, Inc was to be phased out as a separate corporate entity and that Accelerate Madison was to become a program of the Chamber. This meant that the consulting contract for Clear Solutions, LLC was to be directly with the Chamber and not with Accelerate Madison. Alder Clear stated that his title would still be Executive Director, but that title no longer meant that he was an officer of Accelerate Madison, Inc. Alder Clear stated that Accelerate Madison was going to be a brand under which the Chamber operates programs. Alder Clear also indicated that Clear Solutions would still be receiving 30-40% of its income from the Accelerate contract. Accelerate Madison, Inc still exists as an entity, but would eventually be dissolved.

In light of the change in facts, the Board discussed how to proceed with its analysis of the changed situation. Samuel Owens stated that the Board should still go through all of questions 2 through 4 in the memorandum, because Accelerate Madison, Inc, had not yet been dissolved and was still in existence. For questions 5 through 7, the Board should answer those questions in light of the changed facts and assume that the Clear Solutions contract was directly with the Chamber. James Cobb agreed. The Board proceeded in that manner by consensus.

In regard to Question 1, there was a consensus that the Board had jurisdiction. The Board reviewed Questions 2,a, b, and c, and Questions 3 and 4 in the memorandum and concluded that the answer to all three Questions was "Yes", when the Board assumed that the facts were those that had been given to the Board at its June 4, 2014 meeting.

Regarding Questions 5 a, b and c and Question 6, the Board concluded that the answers were "Yes" if Clear Solutions was working directly for the Chamber. There was more discussion regarding Question 7, "Is Alder Clear required to recuse himself regarding matters relating to the Chamber?". The Board members felt that the need for recusal depended on the facts of the situation. The Board and staff discussed the application of Sec. 3.35(5)(a)1 MGO "Use of Office or Position" and Sec. 3.35(5)(a)3 MGO, "Limitations on Actions" The Board members also reviewed the two Opinions of the former Wisconsin Ethics Board which related to disqualification local officials.

Board members were concerned about distinguishing between situations where a council vote would have a substantial or significant effect on the Chamber, compared to situations where the Chamber had a trivial or minor interest. For example, where the Chamber registered or testified in favor of, say, a matter where the Chamber had no direct financial or business interest. Attorney Brist suggested that he could prepare a draft opinion that incorporated the Board's advise. The draft would distinguish between matters that had a trivial or insignificant effect on the alder and those that had a effect that was no trivial or insignificant, using the decision in 2007 Wis Eth Bd 9 as a guide. There was general agreement that staff should prepare a draft that could be reviewed by the Board, and approved at a future meeting.

6. ADJOURNMENT

There was no further business on the Agenda. A motion was made by Samuel Owens, seconded by James Cobb, Chairperson Mary Czyszak-Lyne called for

a vote and following a voice vote, she delcatedred the Motion passed and the meeting was adjourned at 6:40 p.m.